

FORMARTINE AREA COMMITTEE

TUESDAY, 12TH DECEMBER, 2023

Present: Councillors I Taylor (Chair), A Hassan (Vice-Chair), J Crawley, I Davidson, A Forsyth, P Johnston (Items 1 to 4), G Lang, L McAllister, J Nicol, G Owen, D Ritchie and A Stirling

Officers In Attendance:

Elaine Brown (Formartine Area Manager), Claire Young (Area Committee Officer), Fiona Stewart (Senior Solicitor), Kenneth Fraser (Roads Development and Transportation Principal Engineer), Ann Ramsay (Senior Planner), Gordon Buchanan (Service Manager for Environmental Health and Trading Standards), James Hewitt (Senior Planner), Stephanie McMillan (Planner), Fiona Chirside (Environment Planner), Irina Birnie (Team Leader for Historic Environment), Lynne Gravener (Interim Programme Manager), Alex Pirrie (Partnership Manager Central), Shona Campbell (Location Manager), Vicky Henderson (Mental Health & Learning Disability Manager) and Rob Simpson (Interim Director of Business Services).

1 DECLARATION OF MEMBERS' INTERESTS

Councillor Johnston declared a Transparency Statement for Item 4, as he had made a previous Declaration of Interest in relation to previous applications at this site as a Director of a Community Wind Turbine Company. However as there was no longer any community interest in this site, having applied the objective test, he concluded that he had no interest to declare, and he would remain and take part in the determination of this item.

Councillor Nicol declared a Transparency Statement for Item 7, as the report referred to Belhelvie Church and her family is part of the congregation of the Belhelvie Church of Scotland. However, as the report referred to the old ruin, having applied the objective test, she concluded that she had no interest to declare, and she would remain and take part in the determination of this item.

2A PUBLIC SECTOR EQUALITY DUTY

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

- (1) To have due regard to the need to:-
 - (a) eliminate discrimination, harassment and victimisation;
 - (b) advance equality and opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) foster good relations between those who share a protected characteristic and persons who do not share it, and

to consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

2B EXEMPT INFORMATION

The Committee **agreed**, that under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 13 of business, on the grounds that it involved the likely disclosure of exempt information of the class described in the paragraph 8 of Part 1 of Schedule 7A of the Act.

3 MINUTE OF MEETING OF 21 NOVEMBER 2023

There had been circulated and was **approved** as a correct record the minute of the meeting of 21 November 2023.

4 **FULL PLANNING PERMISSION FOR ERECTION OF 4 WIND TURBINES (HUB HEIGHT 50M, 76M TO BLADE TIP) AND ASSOCIATED WORKS (CHANGE OF TURBINES TO PLANNING PERMISSION REFERENCES APP/2015/2965, APP/2019/0922 AND APP/2019/2559) AT LAND AT MAINS OF CAIRNBROGIE FARM, OLDMELDRUM (APP/2022/2505)**

There had been circulated a report dated 29 November 2023 by the Director of Environment and Infrastructure Services, which sought consideration of the planning application outlined within.

The Senior Planner introduced the application, which was recommended for approval, highlighting an error in the report – the previous model of turbines being Enercon E53, not Enercon E63 as stated within the report.

During discussion, Members asked whether the conditions detailed on the 2015 application were taken cognisance of; sought clarification on the proposed location of the turbines; asked about mitigation for shadow flicker in the low winter sun; asked about the difference in noise levels between these models of turbine and those previously approved, being reassured that the turbines could be adjusted accordingly to ensure that the conditions were adhered to; sought clarity on the process for monitoring the noise levels; asked about the landscape impact assessment, noting that the single turbine approval was considered within the context of the larger group; and confirmed that the height of the proposed models was less than the original turbines agreed.

Following debate, the Committee agreed to **grant** Full Planning Permission, subject to the following conditions:

01. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.

Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

02. Unless otherwise agreed in writing with the Planning Authority; within two years of the commissioning of the wind turbines (when energy is produced and sold from the development), a fully detailed scheme for the ultimate reinstatement of the site shall be submitted to, and require the approval of, the Planning Authority. The site

shall be reinstated fully, in accordance with the approved scheme. Such plan shall be subject to review in the light of monitoring Reason: In the interests of visual amenity and landscape protection.

03. At wind speeds not exceeding 12m/s, (referenced to a height of 10m above ground level, at the location of the turbines), the wind turbine noise level from wind turbines marked T1, T2 and T3 at each noise sensitive property shall not exceed the levels in Tables 1, except where the level in the table exceeds the lower fixed limit (35dB LA90,10min. for daytime and quiet daytime hours, and 38dB LA90,10min. for night hours), and also exceeds the measured background noise level, LA90,10min by 5dB or more, in which case the permitted level will be the lower fixed limit or the background noise level plus 5 dB, whichever is the greater.

Location		Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min								
Property Name	Map Ref	4	5	6	7	8	9	10	11	12
Mains of Cairnbrogie	385006 828056	34	36	38	39	39	39	39	39	39
The Steading	384307 828873	34	36	38	39	39	39	39	39	39
East Cattie	384297 828901	33	36	38	39	39	39	39	39	39
Mains of Cairnbrogie a	385106 827954	31	34	36	37	37	37	37	37	37
Mains of Cairnbrogie b	385177 827931	31	33	35	36	36	36	36	36	36
Mains of Cairnbrogie c	385271 827911	30	32	34	35	35	35	35	35	35
Podrach	384158 828120	30	33	35	36	36	36	36	36	36
Note: for all properties not specified above the predicted noise from the turbine will be calculated using the propagation model in ISO 9613-Part 2 incorporating the recommendations contained in the Institute of Acoustics Good Practice Guide dated May 2013.										

Reason: In the interest of retaining a level of control over any changes in the noise from the wind turbine, or any difference in the actual noise from projected noise from the site.

04. At wind speeds not exceeding 12 metres per second, (referenced to a height of 10 metres above ground level, at the location of the turbine), the wind turbine noise level from wind turbine marked T4 at each noise sensitive property shall not exceed the levels in Table 2, except where the level in the table exceeds the lower fixed limit (35dB LA90, 10min, for daytime and quiet daytime house, and 38dB

LA90, 10min for night hours), and also exceeds the measured background noise level, LA90, 10min by 5dB or more, in which case the permitted level will be the lower fixed limit or the background noise level plus 5dB, whichever is the greater.

Location	Standardised wind speed at 10 metre height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10 min									
Property Name	Map Ref	4	5	6	7	8	9	10	11	12
Podrach	384158 828120	32	35	37	38	38	38	38	38	38
The Steading	384307 828873	30	33	34	36	36	36	36	36	36
East Cattie	384297 828901	30	32	34	35	35	35	35	35	35
Damside Cottages	384834 828004	29	32	34	35	35	35	35	35	35
Mains of Cairnbrogie	385006 828056	29	32	33	34	35	35	35	35	35
<p>Note: For all properties not specified above the predicted noise from the turbine model will be calculated using the propagation model in ISO 9613-Part 2 incorporating the recommendations contained in the Institute of Acoustics Good Practice the recommendations contained in dated May 2013</p> <p style="text-align: right;">Guide</p>										

Reason: To ensure that noise limits are not exceeded and to enable prompt investigation of complaints in order to protect nearby residents from undue and noise disturbance from the development

05. The wind turbine operator shall log power production, wind speed and wind direction data continuously and shall retain the data which have been obtained for a period of no less than the previous 12 months. These data shall include the average wind speed in metres per second for each 10 minute period. The measuring periods shall be set to commence on the hour and in 10 minute increments thereafter. The wind speed data shall be made available to the planning authority within 14 days of receipt in writing of a request to do so. These data shall be provided on Microsoft Excel spreadsheet in electronic format or other format agreed with the planning authority. The wind speed shall also be normalised to a 10 metre reference height.

Reason: In the interests of the amenity of the area.

06. The Wind Turbine Operator shall employ an independent consultant, approved by the Planning Authority, to measure, at the operator's own expense, the level of noise emissions from the wind turbines within the first year of the operation of the turbines, and every two years thereafter, unless and until the Planning Authority extend the period or determine that continued compliance monitoring is no longer

required. The measurement procedures, which may include filtering data according to wind direction, shall be agreed with the Planning Authority prior to commencement, (see 'Informative' section below for further detail). The results of any measurement exercise shall be forwarded to the Planning Authority as soon as practicable after the completion of the monitoring exercise. Unless otherwise agreed with the Planning Authority the turbines shall be switched off during part of the monitoring period to permit reliable background noise level data to be determined at the range of wind speeds from 4 minutes per second to 12 minutes per second.

Reason: In the interest of the amenity of the area.

07. Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind turbine operator shall, at their expense, employ an independent consultant approved by the planning authority to investigate the complaint. The written request from the planning authority shall set out the dates, times and locations to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain an amplitude modulation and/or tonal component. Where the property to which a complaint is related is not listed in Tables 1 or 2 attached to this condition, the consultant shall agree in writing with the planning authority the noise limits from those listed in the table that shall be adopted at the complainant's property for compliance checking purposes. The proposed noise limits shall be those limits specified for a listed location which is likely to experience the most similar background noise environment to that experienced at the complainant's property. The chosen noise limits for the complainant's property shall be submitted to and approved in writing by the planning authority before the noise emissions assessment is carried out. The assessment of the rating level of noise emissions and amplitude modulation, if required shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the planning authority. The protocol shall include the proposed measurement locations where measurements for compliance checking purposes shall be undertaken and the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the planning authority. Within 3 months of the date of the written request of the planning authority the wind turbine operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise emissions. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise emissions.

Reason: To ensure that noise limits are not exceeded and to enable prompt investigation of complaints in order to protect nearby residents from undue noise and disturbance from the development.

08. At the request of the planning authority, the Wind Turbine Operator will be required to carry out an assessment for tonal noise in accordance with the procedure

recommended in Section 6 of the document 'The Assessment & Rating of Noise from Wind Farms' (ETSU-R-97) i.e the Nordic Method. Where the tone level above audibility is greater than 2dB, a tonal penalty shall be applied to permitted noise levels, in accordance with Figure 16 of the document; so that permitted levels specified in these conditions will be reduced by the tonal penalty.

Reason: In the interest of the amenity of the area.

09. Development shall not be begun until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local Planning Authority in consultation with the Roads and Bridge Authority. The CTMP shall include:
- a) The routing of all traffic associated with the development on the local road network;
 - b) Measures to ensure that the specified routes are adhered to, including any monitoring procedures;
 - c) Details of any signage and lining arrangements to be put in place;
 - d) Provisions for emergency vehicle access if deemed necessary;
 - e) Identification of a nominated person to whom any road safety issues can be referred; and
 - f) A plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width and axle configuration of all extraordinary traffic accessing the site. The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

Reason: In the interests of road safety and to ensure that abnormal loads access the site in a safe manner

10. The development hereby approved shall be served in accordance with the approved drawings and shall not be brought into use unless:
- a) the maximum gradient of the first 5m of the access road must not exceed 1 in 20.
 - b) the first 5m of access (measured from edge of road or back of footway) to be fully paved and the access shall be internally drained and formed in such a way to prevent any flow of surface water either onto or from the public road.

Once provided shall remain in place for the operational life of the development.

Reason: In order to ensure that the development is served by an appropriate standard of access and associated servicing in the interests of road safety.

11. In the event that the wind turbine fails to produce electricity supplied to a local grid for a continuous period of 6 months, as demonstrated by the submission of operating records and accounts, it will be deemed to have ceased to be required and unless it has been demonstrated that such cessation is due to the wind turbine being under repair or otherwise agreed in writing by the Planning Authority, the wind turbine and its ancillary equipment including cables and foundations shall be dismantled and removed from the site, and the ground fully reinstated to the specification of the Planning Authority, all in accordance with the approved re-instatement plan as specified in condition 2.

Reason: In the interests of safety, amenity and environmental protection of the plant become redundant during or at the end of its lifespan.

12. Prior to the commencement of construction of any turbine foundation an Air Defence Radar Mitigation Scheme shall be submitted to and approved in writing by the Planning Authority in consultation with the Ministry of Defence. For the purposes of this condition, an ADRM scheme means a detailed scheme to mitigate the adverse impacts of the development on the air defence radar at Remote Radar head Buchan and the air surveillance and control operations of the MOD. The scheme will set out the appropriate measures to be implemented to that end. No turbine shall become operational until:

- a) The mitigation measures which the approved ADRM scheme which requires to be implemented prior to the operation of the turbine have been implemented; and
- b) Any performance criteria specified in the approved ADRM scheme and which the approved ADRM scheme requires to have been satisfied prior to the operation of the turbine have been satisfied. The company shall thereafter comply with all other obligations contained within the approved ADRM scheme for the duration of the operation of the development.

Reason: to protect the operational effectiveness and safety of air surveillance and control.

13. The wind turbine shall be finished in a non-reflective pale grey semi[1]matt finish and should not display any advertising on any part of the turbine unless otherwise agreed in writing with the Planning Authority. Confirmation of the details of the finish and colour of all externally visible components of the associated ancillary aspects of the proposal shall be submitted in writing to and agreed by the Planning Authority prior to the construction of any wind turbine foundation or the ancillary substation.

Reason: In the interests of visual amenity.

14. Prior to the commencement of the operation of the wind turbines, all soil and materials stockpiles shall be removed and the construction area reinstated to the satisfaction of the Planning Authority.

Reason: In the interests of visual amenity and landscape protection.

15. Prior to the commencement of the construction of any turbine foundation a site specific construction method statement, including details of waste, surface water runoff, road construction, the timing of works and environmental management, shall be submitted for the approval in writing of the Planning Authority. The approved construction method statement shall be implemented in full during construction.

Reason: In the interest of landscape and environmental protection.

16. That no part of any concrete foundations and no construction activities shall be within 20 metres of any drain or water course. Prior to the commencement of development details of any new access track drainage shall be submitted to and

approved in writing by the Planning Authority. Track drainage should not discharge to a watercourse but to Sustainable Urban Drainage Systems (SUDS).

Reason: To ensure the provision of an acceptable drainage system in the interests of the amenity of the area.

17. Prior to the construction of any turbine foundation details of the routes of all power cables and a ground reinstatement plan shall be submitted for the approval of the Planning Authority. All cables shall be located underground and the ground thereafter reinstated fully in accordance with details which have been approved, within 12 months of the commissioning of the wind turbine, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity and landscape protection.

18. Prior to the commencement of the development (unless the timing of the survey is otherwise agreed under the terms of the Construction Traffic Management Plan required under Condition 9) a dilapidation survey (condition of roads, bridges and retaining walls) of the approved route shall be carried out in consultation with the Roads Authority and the Bridge Authority. Once development is complete any remedial works required shall be completed in consultation with and to the satisfaction of the Roads Authority and Bridge.

Reason: In the interest of road and public safety.

19. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers and otters from being trapped in open excavations, pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:
- a) creation of sloping escape ramps for badgers and otters, which may be achieved by edge profiling of trenches and excavations or by using planks placed into them at the end of each working day; and
 - b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: In the interest of safeguarding the habitat of a protected species.

20. Prior to the commencement of the construction of any turbine foundation, a TV and radio reception mitigation plan for a 20km radius from the boundary of the development site must be submitted to and approved in writing by the Planning Authority:-
- a) The plan shall provide for a baseline TV and radio reception survey to be carried out prior to commencement of the construction of wind turbines at the development site, the results of which shall be submitted to the Planning Authority.
 - b) Within 12 months of the commissioning of the development, any claim by any individual person regarding radio interference or TV picture loss or interference at their house, business premises or other building, shall be investigated by a suitably qualified engineer and the results submitted to the Planning Authority within one month of the conclusion of the investigation.
 - c) Should any impairment to the TV or radio signal be attributable to the wind turbine development, the developer shall remedy such impairment within an

agreed timescale so that the standard of reception at the affected property is equivalent to baseline TV or radio reception, to the satisfaction of the Planning Authority.

Reason: To ensure that any adverse effect on TV or radio reception is rectified.

21. No works in connection with the development hereby approved shall commence unless a written scheme has been submitted to and approved in writing by the planning authority setting out a protocol for the assessment and remediation of shadow flicker in the event of a complaint being received from the owner or occupier of a dwelling alleging shadow flicker. For the purposes of this condition "dwelling" means any dwelling which lawfully exists or had planning permission at the date of this permission. The turbines shall operate in accordance with the approved shadow flicker mitigation protocol and must be capable of being programmed to shut down during times and weather conditions when shadow flicker could occur.

Reason: To protect the amenities of nearby residents by reducing and mitigating the impact of shadow flicker.

22. The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:

- a) the date of the commencement of the erection of wind turbine generators;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any wind turbine generators are brought into use;
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: To maintain aviation safety.

5 NOTIFICATION UNDER ELECTRICITY ACT 1989 FOR CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR THE INSTALLATION OF BATTERY ENERGY STORAGE SYSTEM (BESS) WITH AN INSTALLED CAPACITY OF 105MW AND SUBSTATION 275KV AND ASSOCIATED INFRASTRUCTURE AT LAND ADJACENT TO MILL OF KINMUCK FARM, 6KM NORTH OF ELLON, ABERDEENSHIRE (APP/2023/1758)

There had been circulated a report dated 27 November 2023 by the Director of Environment and Infrastructure Services, which sought consideration of an application that had been submitted to the Scottish Government's Energy Consents Unit.

The Planner introduced the application, which was before the Formartine Area Committee, ahead of consideration by the Infrastructure Services Committee.

During discussion, Members raised concerns around road safety in the vicinity of the Toll of Birness junction and queried the distance from the junction to the proposed access; commented that the number of vehicles on the road would increase

significantly from the current one to two per day; highlighted that local residents had experienced technical difficulties in being able to submit their views on the proposals; queried whether the Energy Consents Unit had to take on the recommended conditions; queried the construction process for the new pylon required; and raised the issue of community benefits for these types of developments.

Following debate, the Committee:-

(1) provided the following **views** on the consultation to the Infrastructure Services Committee, for it to consider when determining how best to respond to the consultation:

- 1) Safety considerations should be paramount in relation to the access road onto the A90 and the stretch of road in the vicinity of the Toll of Birness junction,
- 2) It was noted that there had been technical difficulties for local residents lodging a submission, and it was hard to know how many representations had been made at this stage, and
- 3) Albeit not a material consideration, it was highlighted that there was desire for there to be community benefits in relation to these types of developments, and further discussion on this would be welcomed within the appropriate forum, and

(2) Confirmed their support for the application, **agreeing** that **no objection** be made to consultation and that the following Conditions be added:

1. The resolution of the Roads Development Objection, and
2. The following Conditions:

1. Time Period

The consent is for a period of 35 years from either the date of Final Commissioning or 12 months from the period of First Commissioning of energy storing equipment on site (the date shall be taken from the earlier of the two). Written confirmation of the date of First and Final Commissioning shall be provided to the Planning Authority no later than one calendar month after that date.

Reason: To define the duration of the consent.

2. Cessation

The developer shall notify the Planning Authority in writing of the Cessation of Operation of the site in the following circumstances:

- (i) In the event that the site does not store electricity or otherwise operate for a continuous period of more than 6 months. This notification must occur within 12 weeks of the expiry of the 6-month period; or
- (ii) Within 6 months of the end of the operational life of the development as per condition 1.

Reason: To define the cessation of operation and in order to give effect to the restoration of the development site.

3. Restoration

The development shall be restored in accordance with the following details:

- (i) The Development will cease to store electricity or otherwise operate by no later than the date falling 35 years from the Date of Commissioning (as per the stipulations of condition 2 of this permission). The total period for decommissioning and restoration of the site in accordance with this condition shall not exceed 18 months after the date of cessation of electricity generation by the Development without prior written approval of the Planning Authority.
- (ii) There shall be no Commencement of Development unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority (unless otherwise agreed in writing with the Planning Authority). The strategy shall include measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the Development, confirmation of the status of subterranean elements of the development (retention, removal or other such proposal), the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.
- (iii) No later than twelve months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration, and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy (as agreed under ii above), shall be submitted to the Planning Authority for written approval. The detailed decommissioning, restoration, and aftercare plan will provide updated and detailed proposals for the removal of above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions. It should include (but shall not be limited to):
 - a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration, and aftercare phases);
 - b) details of the formation of new features required to facilitate the decommissioning and restoration including but not limited to: the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - c) temporary site illumination;
 - d) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;

- e) the Development shall be decommissioned, site restored, and aftercare thereafter undertaken in accordance with the detailed decommissioning, restoration, and aftercare plan as approved, unless otherwise agreed in writing in advance with the Planning Authority.

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

4. Financial Guarantee

No works in connection with the development hereby approved shall commence unless the developer has provided to the Planning Authority written details of the guarantee or other financial provision that is proposed to be put in place to cover all site restoration liabilities at the end of the period of this permission (as per condition 1 of this notice).

The developer shall also provide an independent confirmation by a chartered surveyor or appropriately qualified individual (whose appointment for this task has been approved in writing by the Planning Authority) that the amount of the guarantee or financial provision so proposed is sufficient to meet the full estimated costs of dismantling, removal, disposal, site restoration, remediation aftercare liabilities and incidental work as well as associated professional costs. No works shall commence on site unless written confirmation has been given by the Planning Authority that the proposed guarantee is satisfactory, and the developer has confirmed in writing to the Planning Authority that the guarantee has been put in place. The guarantee or other financial provision must:

- a) be granted in favour of the Council as planning authority;
- b) be from a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
- c) be reviewable to ensure that the specified amount of the guarantee always covers the value of the site restoration and aftercare liabilities;
- d) come into effect on or before the date of commencement of development and expire no earlier than 12 months after the end of the restoration period.

In the event that the guarantee becomes invalid for any reason, no operations shall be carried out in connection with the development hereby approved unless a replacement guarantee, completed in accordance with the terms of this condition has been submitted to, and approved in writing by, the Planning Authority.

Reason: To ensure financial security for the cost of the site reinstatement and aftercare liabilities is in place in the interests of the visual amenity of the area and environmental protection.

5. Construction Environment Management Plan (CEMP)

No works in connection with the development hereby approved (including demolition, ground works and vegetation clearance) shall commence unless a construction environmental management plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include the following:

- (a) Risk assessment of potentially damaging construction activities;
- (b) Identification of biodiversity protection zones;
- (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- (d) The location and timing of sensitive works to avoid harm to biodiversity features;
- (e) The times during construction when specialist ecologists need to be present on site to oversee works;
- (f) Responsible persons and lines of communication;
- (g) The role and responsibilities on site of an ecological/ environmental clerk of works (ECoW) or similarly competent person;
- (h) Use of protective fences, exclusion barriers and warning signs.
- (i) The location, detail and use of any proposed lighting during construction.

All works carried out during the construction period shall be undertaken strictly in accordance with the approved CEMP.

The CEMP must include or be informed by the use of Species Protection Plans (SpPP), which outline the measures to be taken in order to avoid and mitigate impacts upon identified protected species.

Reason: In the interests of protecting the biodiversity of the environment.

6. Landscaping Scheme

No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority.

Details of the scheme shall include:

- a) A tree survey in accordance with BS 5837:2012;
- b) Existing landscape features and vegetation to be retained;
- c) Protection measures for the landscape features to be retained;
- d) Existing and proposed finished levels;
- e) The location of new trees, shrubs, hedges, grassed areas and water features;
- f) A schedule of planting to comprise species, plant sizes and proposed numbers and density, which are appropriate to the location;
- g) The location, design and materials of all hard landscaping works including any walls, fences or gates;
- h) An indication of existing trees, shrubs and hedges to be removed;
- i) A programme for the implementation, completion and subsequent management and monitoring of the proposed landscaping.

- j) The location of any landscaping or other measures which constitute part of the Biodiversity Net Gain / Enhancement measures as agreed under condition 7 (Biodiversity Enhancement).

All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

7. Biodiversity Enhancement

Prior to the commencement of development, the Outline Biodiversity and Landscape Strategy shall be submitted to the Planning Authority for finalisation and agreement. Thereafter, the development hereby approved shall not be brought into use unless all measures proposed within the strategy have been installed or constructed in accordance with approved details

Reason: In the interests of protecting and enhancing the biodiversity of the environment.

8. Construction Traffic Management Plan

No works in connection with the permission hereby granted shall commence unless a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the planning authority. Thereafter, the development shall be carried out in accordance with the approved CTMP.

Reason: In the interests of road safety and to avoid degradation of the road and bridge network.

9. Construction Hours

Construction shall only occur within the following timeframes:

07:00-18:00 Mon-Fri;
08:00-13:00 Sat.

No construction activity shall be undertaken out with the aforementioned timeframes, unless agreed in writing with the Planning Authority.

A request for out of hours working must be made in writing to the Planning Authority no less than 10 working days ahead of the proposed variation.

Reason: In the interests of protecting the amenity of the surrounding area.

10. Control Building

No works in connection with the development of the Control Building shall commence unless details of the colour and finish of the control building along with a detailed site layout and elevations of the buildings to be erected in the temporary construction compound has been submitted to and approved in writing by the planning authority.

Reason: In the interests of the appearance of the building and the visual amenities of the area.

11. Programme of archaeological works

No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works.

Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

12. Noise (Noise Limits)

Noise from the proposal and all associated buildings shall not exceed NR20 when measured over an Leq5min (dB) within any habitable room of any noise sensitive dwelling with an open window.

Reason: In the interests of protecting the amenity of noise sensitive receptors.

13. Noise (NIA Mitigation)

The development hereby approved shall not be brought into use unless the battery units are oriented with the noise sources facing away from the noise sensitive receptors as detailed within the NIA.

Reason: In the interests of protecting the amenity of noise sensitive receptors.

14. Noise (Sound Power Level Noise Data)

The development hereby approved shall not be brought into use until sound power level noise data is provided for Battery Units, Power Converter Units and Super Grid Transformers. The sound power level noise data shall not exceed

the sound power noise level data shown in NIA produced by ITP Energised. Once approved for Battery Units, Power Converter Units and Super Grid Transformers proposed in the information shall be implemented, installed, and shall be retained and maintained in perpetuity.

Reason: In the interests of protecting the amenity of the surrounding area.

15. Noise (Acoustic Enclosures)

The development hereby approved shall not be brought into use until information is submitted and approved on acoustic enclosures around the Super Grid Transformer which provides at least 18dB attenuation as described in the NIA. Once approved, the enclosures proposed in the information shall be implemented, installed, and shall be retained and maintained in perpetuity.

Reason: In the interests of protecting the amenity of the surrounding area.

Informatives:

Works by archaeological organisation

Any archaeological survey, watching brief or archaeological works required by a condition attached to this planning permission must be undertaken by a suitably qualified archaeological organisation.

Written Scheme of Investigation (WSI)

A written specification produced by the appointed Chartered Institute for Archaeologists (CIfA) member archaeological contractor on behalf of the applicant which outlines in detail the proposed scheme of archaeological investigation. It should detail what archaeological works will be carried out and how; how any encountered archaeological remains will be dealt with; how any updates to the WSI will be provided; the reporting process; and the potential for post-excavation requirement. The WSI must be submitted to the planning authority for approval before being implemented. The contents of the WSI must conform to the relevant national and CIfA standards and guidance.

Post-Excavation Research Design (PERD)

A written specification for the post-excavation analysis of artefacts and samples recovery during the excavation phase or archaeological works, prepared by the appointed Chartered Institute for Archaeologists (CIfA) member archaeological contractor on behalf of the applicant. This should include a project design for the post-excavation work, a costed assessment for this work, and costed proposals for the publication of results. The PERD must be submitted to the planning authority for approval. Once the PERD has been agreed, written confirmation must be provided to the planning authority demonstrating that an agreement is in place between the applicant and the appointed CIfA member archaeological contractor, committing the applicant to fund the post-excavation work and for said work to be completed by an agreed date.

6 ABERDEENSHIRE COUNCIL TREE PRESERVATION ORDER 138 (2023) BALNEDEN, OLDMELDRUM

There had been circulated a report dated 20 November 2023 by the Director of Environment and Infrastructure Services which sought the confirmation of a recently served Tree Preservation Order (TPO) which was the subject of an outstanding objection. A TPO required to be confirmed within six months of the making of it or it would lapse.

The Environment Planner introduced the report and provided a presentation, and the Committee heard an oral representation from Mr Brown, who had submitted the representation at Appendix 3 of the report.

During discussion, Members asked about the tree's significance in the visual amenity of the area, seeking clarification of its rarity and that there were few trees remaining in the conservation area; queried whether the tree was indigenous to Scotland; sought clarification on the process for maintaining the tree in a conservation area vs under a TPO; queried whether there had been any structural damage caused by the tree; asked who was liable for costs associated with the maintenance of the tree; noted that the neighbouring property was to the south, so the tree should not cause significant overshadowing; sought clarity on the time of year the presentation photographs were taken; and queried if the tree owner had only been maintaining the portion of tree within his own garden, noting that the photos appeared to indicate more pruning on that side.

Following debate, Councillor Hassan, seconded by Councillor Nicol, **moved** that the Committee confirm Tree Preservation Order No. 138 (2023) Balneden, Oldmeldrum, as per the recommendation within the report.

Councillor Ritchie, seconded by Councillor Crawley, **moved as an amendment** that the Committee did not confirm Tree Preservation Order No. 138 (2023) Balneden, Oldmeldrum, on the grounds that pruning works were required now due to structural implications and impact on natural light for the neighbouring property.

The Members voted as follows:

For the Motion	6	Councillors Davidson, Hassan, McAllister, Nicol, Stirling and Taylor
For the Amendment	5	Councillors Crawley, Forsyth, Lang, Owen and Ritchie

Therefore, the Committee **agreed** to confirm Tree Preservation Order No. 138 (2023) Balneden, Oldmeldrum without modification.

7 HISTORIC ASSET MANAGEMENT PROJECT UPDATE

There had been circulated a report dated November 2023 by the Director of Environment and Infrastructure Services which detailed projects planned to be undertaken by the Historic Asset Management Project (HAMP) in the financial year 2024/2025. It also provided a summary of progress made over the past year 2023/2024, with a list of completed projects, budget information and other relevant updates.

The Historic Environment Team Leader introduced the report, highlighting an error – the church referred to in the report as “Bethelnie” was in fact the old Belhelvie Church.

Following discussion, the Committee:

- (1) **noted** the contents of the report and provided the following **comments** to the Infrastructure Services Committee on the annual update on the Historic Asset Management Project:
 - a) Interpretation Boards were very important to inform visitors to the history and context of the assets they were visiting,
 - b) Aerial drone footage had been recorded in the Inverkeithny and Methlick areas which captured trees that were no longer there, should the Service wish these for posterity,
 - c) The works to be carried out in the Formartine area were very much welcomed,
 - d) It would be helpful for local members to be kept informed of the completion of any local works,
 - e) Noting that compensation had been granted for the damage to the Merkat Cross, it was highlighted that in due course the Service may need to consider removing any remaining finials due to their delicate condition, and
 - f) The external funding being drawn in was welcomed,
- (2) **endorsed** the approach taken by the Historic Asset Management Project in respect of Council owned historic assets, and
- (3) **approved** that future annual updates would be incorporated into the Historic Environment Strategy and Action Plan.

8 **ABERDEENSHIRE HEALTH AND SOCIAL CARE PARTNERSHIP - QUARTERLY PERFORMANCE REPORT ON STRATEGIC DELIVERY PLAN**

There had been circulated a report dated 9 November 2023 by the Chief Officer for the Aberdeenshire Health and Social Care Partnership. The report provided the Committee with information on the Health and Social Care Partnership (HSCP)’s performance in terms of progress against its Strategic Delivery Plan, and the Formartine HSCP Team update on local health and social care issues and priorities.

Following discussion, the Committee:

- (1) **noted** the content of the performance report provided, and
- (2) provided the following **comments** to the Aberdeenshire Integration Joint Board (IJB) for their consideration:
 - a) The committee welcomed the updates provided, in particular those relating to Formartine,
 - b) It would be helpful to know whether pharmacists were receiving training to be able to deal with any customers who are suffering from poor mental health,
 - c) It was queried whether anything was being done to alleviate the lack of staff at Westbank Care Home and the inability to admit to full occupancy,

- d) As regards the emergency closure of the Meadows Care Home in Huntly, with residents being admitted to Westbank Care Home, it was noted that feedback from the families was very positive and thanks was given to the staff,
- e) It was queried what support services could be put in place when it was a challenge to balance palliative care and other types of care, due to lack of staffing, and questioned whether there was care at home for those who required it,
- f) Cognisance was given to the challenging times being faced by the service, and
- g) Under key successes was listed the Ellon Day Opportunities and thanks and recognition was given to these staff.

9 BUSINESS SERVICES AREA COMMITTEE PERFORMANCE INDICATOR REPORT - MID-YEAR PROGRESS UPDATE (APRIL 2023 - SEPTEMBER 2023)

There had been circulated a report dated 30 November 2023 by the Interim Director of Business Services, which provided the Formartine Area Committee with an update on progress in relation to Business Services performance indicators which supported the Council Plan Priorities 2022-27.

Following discussion, the Committee **noted** the progress made in relation to Business Services performance indicators relating to the Formartine Area, and provided the following **comments**:

- a) It would be helpful to have details of the contact centre average call times, from the previous year, for comparison,
- b) It would be useful to know when the chatbot function was expected to have embedded fully, appreciating that the system learned as it progressed, and
- c) It would be helpful to understand whether the chatbot function would result in a saving to the taxpayer.

10 APPOINTMENT TO LOCAL REVIEW BODY

There had been circulated a report dated 22 November 2023 by the Interim Director of Business Services, which sought the appointment of a substantive member to the Local Review Body, following the resignation of Councillor Johnston from the role.

Councillor Taylor, seconded by Councillor Owen, nominated Councillor Davidson to the role of substantive member of the Local Review Body. Councillor Davidson accepted this nomination and was duly **appointed** as the substantive member of the Local Review Body.

As Councillor Davidson had previously been the substitute member, a nomination was then sought to fill this role.

Councillor Taylor, seconded by Councillor Stirling, nominated Councillor Lang to the role of substitute member of the Local Review Body. Council Lang accepted this nomination and was duly **appointed** as the substitute member of the Local Review Body.

11 AREA COMMITTEE BUDGET 2023-2024 - APPLICATION FOR FUNDING

With reference to the Minute of the Meeting of this Committee of 25 April and 2 May 2023 (Item 10), at which the broad allocation of the Area Committee Budget for 2023-

24 was agreed, there was circulated a report dated 24 November 2023 by the Interim Director of Business Services which outlined an application for funding that had been received for consideration by members.

After considering all of the information provided, the Committee **agreed to award up to £5,000** to the Ellon Chapter of Cycling without Age Scotland (CWAS), towards the purchase and operation of a Trishaw for the Ellon area. There only being £2,977.66 remaining in the budget, this would be made available in the first instance, with a further £2,022.34 being made available, should any funds already committed be returned to the budget.

12 STATEMENT OF OUTSTANDING BUSINESS

The Committee had before them and **noted** a report by the Formartine Area Manager, updating on matters that had previously been discussed by the Committee but remained to be resolved.

After noting the verbal updates provided, the Committee **agreed** that:

- 1) Item one could be discharged,
- 2) Item two be updated to reflect the session to be held in January,
- 3) The verbal update in relation to Item 3 was not satisfactory and this should be escalated by the Area Manager to the Director and Head of Service, to reiterate the importance of this matter progressing as soon as possible, as it had now been almost a year since the MPI was submitted, and
- 4) Any further updates in relation to Item 3 be circulated to the Committee members as soon as possible.

13 SUPPLEMENTARY PROCUREMENT PLAN FOR BUSINESS SERVICES - PROCUREMENT APPROVAL

There had been circulated an exempt report by the Director of Environment and Infrastructure Services which sought approval of a Supplementary Procurement Plan for the proposed procurement to be added to the Business Services Directorate Annual Procurement Plan that was approved by Infrastructure Services Committee at its meeting on 2 March 2023.

After considering all the information provided, the Committee:

- 1) **noted** the Directorate Supplementary Procurement Plan as detailed in Appendix 1 of the report,
- 2) **approved** the item on the Supplementary Procurement Plan identified as falling within the remit of the Committee,
- 3) **agreed** not to reserve approval of the Procurement Approval Form (PAF) for the item on the Procurement Plan, and
- 4) **noted** that as the Committee did not reserve approval of the Procurement Approval Forms then the relevant Chief Officer had the delegated authority to approve the Procurement Approval Forms and also to award the final contract for the item in the Supplementary Procurement Plan.