

North East Planning Committee

Due to Scottish Government guidance relating to COVID-19, this meeting will be held remotely.



Wednesday, 20th October, 2021 - 1.30 p.m.

AGENDA

Page Nos.

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST** – In terms of Section 5 of the Code of Conduct, members of the Committee are asked to declare any interest in particular items on the agenda and the nature of the interest (s) at this stage.
3. **MINUTE** – Minute of Meeting of North East Planning Committee of 22nd September, 2021. 3 – 5
4. **21/00913/FULL - PITMEDDEN FARM, FIFE** 6 – 16
Erection of dwellinghouse.
5. **21/01091/FULL - LAND 300M SOUTH OF BALMULLO FARM, MOONZIE MILL, BALMULLO** 17 – 25
Engineering operations to construct an agricultural lagoon for the storage of farm derived digestate.
6. **20/00568/EIA - LAND AT KENLY FARMS, KIPPO, KINGSBARNs** 26 – 51
Application under Regulation 11 for renewal of planning permission 16/01425/EIA - erection of 6 wind turbines (100m to tip) and ancillary development including control building, construction of access roads, upgrading of existing access road and temporary construction compound (Section 42 application to vary planning conditions 13, 14, 15, 16, 17, 18, 37 and 38) at land at Kenly Farms, Kippo, Kingsbarns, Fife.
7. **APPLICATIONS FOR PLANNING PERMISSION, BUILDING WARRANTS AND AMENDED BUILDING WARRANTS DEALT WITH UNDER DELEGATED POWERS**
List of applications dealt with under delegated powers for the period 6th September to 1st October, 2021.
Note - these lists are available to view with the committee papers on the Fife.gov.uk website.

Members are reminded that should they have queries on the detail of a report they should, where possible, contact the report authors in advance of the meeting to seek clarification.

Lindsay Thomson
Head of Legal and Democratic Services
Finance and Corporate Services

Fife House
North Street
Glenrothes
Fife, KY7 5LT

13th October, 2021

If telephoning, please ask for:
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THE FIFE COUNCIL - NORTH EAST PLANNING COMMITTEE- REMOTE MEETING

22 September, 2021

1.45 p.m. – 3.20 p.m.

PRESENT: Councillors Donald Lothian (Convener), Tim Brett, John Docherty, Andy Heer, Jane Ann Liston, David MacDiarmid, Karen Marjoram, Bill Porteous, Jonny Tepp, Brian Thomson and Ann Verner.

ATTENDING: Alastair Hamilton, Service Manager - Development Management, Economy, Planning & Employability Services; Lindsay Thomson, Head of Legal & Democratic Services, Elizabeth Mair, Committee Officer and Steven Paterson, Solicitor, Legal & Democratic Services.

APOLOGIES FOR ABSENCE: Councillors Bill Connor, Linda Holt, Margaret Kennedy, Tony Miklinski and Dominic Nolan.

297. DECLARATIONS OF INTEREST

Councillor Thomson declared an interest in Para. 301 - '20/02099/FULL - East Grange Farmhouse, Grange, St Andrews' - as a family member lived adjacent to the site and had commented on the application.

298. MINUTE

The Committee considered the minute of the North East Planning Committee of 25th August, 2021.

Decision

The Committee agreed to approve the minute.

299. 20/02239/FULL - CARPHIN HOUSE, LUTHRIE, CUPAR

The Committee considered a report by the Head of Planning relating to an application for the formation of replacement hardstanding to existing courtyard (retrospective).

Decision

The Committee agreed to:-

- (1) refuse the application on the grounds of visual amenity, for the reasons that the replacement surface had failed to preserve the character and integrity of the Category C Listed Building and its settings in line with Section 59 (1) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 and was contrary to Policies 1 and 14 of the adopted FIFEplan Local Development Plan (2017);

(2)/

2021 NEPC 181

- (2) delegate to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to draft and formulate an appropriately worded planning reason to properly reflect the issues outlined and referred to at (1) above; and
- (3) delegate to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to take enforcement action to ensure either the restoration of the original surface, if still available, or replacement with natural stone.

300. 21/00450/LBC - CARPHIN HOUSE, LUTHRIE, CUPAR

The Committee considered a report by the Head of Planning relating to an application for Listed Building Consent for formation of replacement hardstanding to existing courtyard (in retrospect).

Decision

The Committee agreed to:-

- (1) refuse the application for the following reasons:-
 - (i) justification for the development would have been provided by planning application 20/02239/FULL which has now been refused; and
 - (ii) in the interests of preserving the setting of the Category C Listed Building; the development is visually discordant and intrusive and contrary to Section 14(2) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 and is also contrary to Policies 1 and 14 of the adopted FIFEplan Local Development Plan (2017);
- (2) delegate to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to draft and formulate appropriately worded planning reasons to properly reflect the issues outlined and referred to at (1) and (2) above; and
- (3) delegate to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to take enforcement action to ensure the restoration of the original surface, if still available, or replacement with natural stone.

301. 20/02099/FULL - EAST GRANGE FARMHOUSE, GRANGE, ST ANDREWS

Prior to consideration of the following item Councillor Thomson, having declared an interest, left the meeting at this point.

The Committee considered a report by the Head of Planning relating to an application for the erection of first floor extension of domestic garage to form self-contained accommodation.

Decision/

Decision

The Committee agreed to refuse the application for the two reasons detailed in the report

Councillor Thomson re-joined the meeting following consideration of the above application.

302. 21/01832/FULL - TROMIE SHORE STREET, CELLARDYKE

The Committee considered a report by the Head of Planning relating to an application for the erection of domestic garage with first floor habitable accommodation and erection of timber gates.

Decision

The Committee agreed:-

- (1) to approve the application subject to the three conditions and for the reasons detailed in the report, subject to the removal of the word 'timber' from Condition 2;
- (2) an additional condition requiring that the new gates be of a suitably designed open style and not solid timber as originally proposed; and
- (3) to delegate to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to draft and formulate an appropriately worded planning condition to properly reflect the issues outlined and referred to at (2) above.

303. APPLICATIONS FOR PLANNING PERMISSION, BUILDING WARRANTS AND AMENDED BUILDING WARRANTS DEALT WITH UNDER DELEGATED POWERS

Decision

The Committee noted the lists of applications dealt with under delegated powers for the period 9th August to 4th September, 2021.

ITEM NO: 4

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/00913/FULL

SITE ADDRESS: PITMEDDEN FARM FIFE

PROPOSAL: ERECTION OF DWELLINGHOUSE

**APPLICANT: MR JOHN SMITH
CARAVAN JOCKS CROFT GLASSARTS**

**WARD NO: W5R16
Howe of Fife and Tay Coast**

CASE OFFICER: Scott McInroy

DATE REGISTERED: 04/05/2021

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 objections contrary to officers' recommendation have been received

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.0 BACKGROUND

1.1 The site is located to the north of Auchtermuchty and is accessed from the B936, Q74 and Q75 access roads. The site is located to the south of Pitmedden Farm which is designated as countryside as per the adopted FIFEplan (2017). A static caravan which provides the existing living accommodation on site sits on a raised section of ground on the eastern portion of the site which fronts onto the access road, to the rear of the static caravan the site slopes down westwards into the hollow where the main land holding is located. The area of the application site is approximately 0.84ha.

1.2 This application is for the erection of a dwellinghouse and associated parking. The proposed single storey modest two-bedroom dwellinghouse would have a footprint of 82sqm and would be finished in timber cladding with natural slate roof and would front onto the access road. The off street parking would be located to the front and side of the proposed dwelling. The proposed dwelling would replace the existing static caravan on site. The caravan that is currently on site has a footprint of 63sqm, the proposed dwellinghouse footprint would only increase the footprint of development on this site by 20sqm.

1.3 The planning history for this site is:

14/02939/FULL - Erection of temporary mobile home (two years) - approved by DPEA on 15/05/2015

17/03396/FULL - Continued siting of temporary mobile home (two years) - approved by DPEA on 16/08/2018

2.0 ASSESSMENT

2.1 The issues to be assessed against the Development Plan and other guidance are as follows:

- Principle of Development
- Design/Visual Impact on the Countryside
- Residential Amenity
- Garden Ground
- Transportation
- Low Carbon
- Houses in Multiple Occupation

2.2 PRINCIPLE OF DEVELOPMENT

2.2.1 Scottish Planning Policy (2014) and Policies 1, 7 and 8 of the adopted FIFEplan (2017), apply with regards to the principle of development for this proposal.

2.2.2 Scottish Planning Policy (SPP) promotes the use of the plan-led system to provide a practical framework for decision making on planning applications thus reinforcing the provisions of Section 25 of the Town and Country Planning (Scotland) Act (1997) [the Act]. The SPP seeks to promote the use of previously developed land and better access by sustainable transport modes and advises that new residential units should primarily be concentrated within existing settlements. However, recognises the increased demand for new types of development in rural areas. SPP further highlights that, through supporting policies, demand for new housing in the countryside can still be met in a way which can bring social, environmental and economic benefits.

2.2.3 Adopted FIFEplan (2017) Policy 1 sets out the requirements for development principles. This policy supports development proposals providing they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. It further states the development will only be supported if it is in a location where the proposed use is supported by the Local Development Plan. In the instance of development in the countryside, the proposed development must be appropriate for the location through compliance with the relevant policies; in this instance, Policies 7 and 8.

2.2.4 Policy 7 of FIFEplan advises that development in the countryside will only be supported in certain instances. One such circumstance is that the proposal is in line with Policy 8 (Houses in the Countryside). However, it further sets out that all development must be of a scale and nature that is compatible with surrounding uses; be well-located in respect of available infrastructure; and be located and designed to protect the overall landscape and environmental quality of the area. Moreover, in occurrences where development is proposed on prime agricultural land, Policy 7 states that development will not be supported unless it is essential.

2.2.5 The final policy taken into consideration with regards to the principle of development for this application is Policy 8 of FIFEplan which sets out specific requirements for the siting of new housing in the countryside. However, (in line with Policy 7) all development must be of a scale and nature that is compatible with surrounding uses; be well-located in respect of available infrastructure; and be located and designed to protect the overall landscape and environmental quality of the area.

2.2.6 The application site is part of a wider landholding that currently houses a range of livestock. The existing residential caravan currently sits on a raised section of land that overlooks the rest of the landholding to the west, north west. The landholding and existing caravan are owned by the applicant who lives with his wife in the temporary caravan on site and have done so for 5 years. There are no residential properties within the landholding, only small sheds/huts associated with the livestock on site. The applicant was asked to provide a supporting statement as part of this application to provide more detail on the existing business and how it was run and what the requirements were for onsite staffing, the applicant subsequently submitted a supporting agricultural justification.

2.2.7 The supporting statement states that the labour requirement for the existing business run by the applicant requires 0.5 labour units on site, while this could rise to 0.7 units depending on the amount of weaner pigs that are produced every season. The applicant aims to diversify the existing enterprise by introducing a small poultry enterprise and poly-tunnel vegetable plant enterprise which in turn would increase the required labour units to 1.9. At present the applicant lives in a caravan on site which was granted permission on appeal by the DPEA through application 17/03396/FULL, the conclusion of which was that by facilitating the appellant's continued on-site presence the mobile home will give support to the day to day operation and development of the smallholding in accordance with policies 7 and 8. Through the supporting statement it is considered that by having permanent on-site accommodation, this would ensure the operational efficiency of the business by having an onsite presence. This in turn would ensure that the welfare of the livestock is maximised and ensures that practical management issues are dealt with more quickly and more effectively than when staff are off farm.

2.2.8 The proposed site of the new dwelling sits above the landholding looking down onto the area where the livestock is housed and is adjacent the access road so would provide additional security for the machinery and livestock on site. There have been instances of wildlife crime in this area and the applicant believes that by locating the house here rather will be a deterrent to any future issues. As the applicant has provided a detailed agricultural justification, it is considered in this instance that the proposal complies with criterion 1 of Policy 8 of the adopted FIFEplan (and therefore complies with criterion 7 of Policy 7) in that the proposed additional dwellinghouse for a farmworker is essential to support the existing rural business that is run from this landholding. The overall acceptability of any such development must however also satisfy other relevant Development Plan policy criteria as identified in Section 2.1 of this report.

2.2.9 Concerns have been raised regarding the principle of development in a countryside location. As has been assessed above (paragraph 2.2.6) the applicant has submitted a supporting statement which provides a detailed justification, and it is considered in this instance that the proposal complies with criterion 1 of Policy 8 of the adopted FIFEplan (and therefore complies with criterion 7 of Policy 7)

2.3 DESIGN/VISUAL IMPACT ON THE COUNTRYSIDE

2.3.1 FIFEplan Local Development Plan (2017) Policies 1, 7, 8 and 10 and Making Fife's Places Supplementary Guidance (2018) apply with regard to the design and visual impact of the proposal.

2.3.2 Policies 1 and 10 of FIFEplan (2017) aim to protect the visual amenity of the local community and state that development proposals must demonstrate that they will not lead to a significant detrimental impact in relation to the visual impact of the development on the surrounding area.

2.3.3 As defined previously in this report, Policy 7 of FIFEplan advises that development in the countryside will only be supported where it is for housing which complies with Policy 8 and is of a scale and nature which is compatible with surrounding uses and will result in an overall enhancement to the landscape and the environmental quality of the area.

2.3.4 Making Fife's Places Supplementary Guidance (2018) sets out the expectation for developments with regards to design. These documents encourage a design-led approach to development proposals through placing the focus on achieving high quality design. These documents also illustrate how developments proposals can be evaluated to ensure compliance with the six qualities of successful places.

2.3.5 As the application site is located within the countryside, greater consideration must be given to the visual impact the proposed development would have on both in terms of its wider and local impact on the landscape. At present the application site houses a caravan that was consented through the approval of application 17/03396/FULL. The proposed single storey modest two-bedroom dwellinghouse would have a footprint of 82sqm and would be finished in timber cladding with natural slate roof. The caravan that is currently on site has a footprint of 63sqm, the proposed dwellinghouse footprint would only increase the footprint of development on this site by 20sqm, therefore the modest proposed new dwelling therefore would not be a prominent feature on the landscape. The proposed new dwelling with its choice of materials would provide a visual enhancement to this location and countryside given the existing visual impact of the temporary caravan that is currently on site. The site benefits from natural screening to the north and west and giving the rolling nature of the surrounding area, the proposed

dwellinghouse won't create any significant impact on the countryside. A condition has been attached to this application requiring details of the proposed boundary treatment to be submitted to the planning authority for agreement prior to development. The application site is not prime agricultural land so therefore development here would not be detrimental to the supply of prime agricultural land in the surrounding area. In this instance it is considered that the scale, size, design and location of the dwellinghouse on site would not have a detrimental impact upon the natural environment with regards to visual amenity. The modest scale and design would therefore be deemed acceptable when assessed against the relevant design policy and guidance as set out in the Local Development Plan.

2.4 RESIDENTIAL AMENITY

2.4.1 Policies 1 and 10 of the Adopted FIFEplan (2017) Fife Council Customer Guidelines on Daylight and Sunlight apply in terms of residential amenity.

2.4.2 The above policies and guidelines set out guidance for encouraging appropriate forms of development in the interests of residential amenity. They generally advise that development proposals should be compatible with their surroundings in terms of their relationship to existing dwellings, and that they should not adversely affect the privacy and amenity of neighbours.

2.4.3 With regards to residential amenity, the nearest residential properties lie 0.5km to the west, 0.5km to the north and 0.43km to the east. Due to the distance, sloping nature of the land and existing tree belts, there would be no significant impact with regards to overlooking, loss of privacy and impact on daylight and sunlight here. On this basis, the proposal is therefore considered to be capable of meeting the requirements of the relevant Development Plan policies and Fife Council Customer Guidelines respectively with respects to impacting on neighbour developments.

2.5 GARDEN GROUND

2.5.1 Fife Council's Planning Customer Guidelines on Garden Ground apply in this instance.

2.5.2 Fife Council's Planning Customer Guidelines on Garden Ground advises that all new detached dwellings should be served by a minimum of 100 square metres of private useable garden space and that a building footprint to garden space ratio of 1:3 is required.

2.5.3 Taking into account the size of the application site and the proposed footprint of the dwellinghouse, it is deemed that the proposal would ensure that sufficient levels of private useable garden space are provided. This application is therefore considered to comply with Fife Council's Planning Customer Guidelines on Garden Ground.

2.6 TRANSPORTATION

2.6.1 Policies 3 and 10 of the Adopted FIFEplan (2017) and Fife Council Transportation Development Guidelines apply with regard to this proposal.

2.6.2 Transportation Development Management were consulted on this application. With regards to previous planning history on this site, TDM objected to application 17/03396/FULL on road safety grounds. However, through the appeal process, the Reporter however, concluded that this development would not have a significant adverse effect on the safety and convenience of road users and in allowing the Appeal, added road safety conditions. TDM have in this instance

concluded that the road safety conditions added to application 17/03396/FULL should carry forward to this application should the application be approved.

2.6.3 Objections have been raised stating that this area has been a passing place for years for users of the existing road. The application site has had consent for a caravan on site since 2015 and has been lived in by the applicant since then, therefore this area has not been used as a passing place for over 6 years.

2.7 LAND STABILITY/CONTAMINATION

2.7.1 PAN33 advises that suspected and actual contamination should be investigated and, if necessary, remediated to ensure that sites are suitable for the proposed end use. Policy 10 of the Adopted FIFEplan advises development proposals will only be supported where there is no significant detrimental impact on amenity in relation to contaminated and unstable land, with particular emphasis on the need to address potential impacts on the site and surrounding area.

2.7.2 An objection has been received regarding the make-up of this area of land. Land and Air Quality team were consulted on this application and raised no concerns, however, have requested a condition be added regarding the requirement for a site-specific risk assessment should any unexpected conditions be encountered during development.

2.8 LOW CARBON

2.8.1 Collectively, Policies 1:Development Principles (Part B), 3: Infrastructure and Services and 11: Low Carbon Fife of FIFEplan state that planning permission will only be granted for new development where it has been demonstrated, amongst other things, that: low and zero carbon generating technologies will contribute to meeting the current carbon dioxide emissions reduction target (as set out by Scottish Building Standards); construction materials come from local or sustainable sources; and water conservation measures are in place. The Council's Low Carbon Fife Supplementary Guidance (2019) notes that small and local applications will be expected to provide information on the energy efficiency measures and energy generating technologies which will be incorporated into their proposal. Applicants are expected to submit a Low Carbon Sustainability Checklist in support. The applicant has submitted a low carbon checklist which states that the house will have solar panels on the roof and will be built with efficient insulation methods reducing the carbon footprint of the building. The building materials will also be sourced locally.

2.8.2 As such, it is considered that the proposed development accords with the above provisions of policy and guidance in relation to low carbon.

2.9 HOUSES IN MULTIPLE OCCUPATION

2.9.1 Policy 2 of the Adopted FIFEplan advises that the use of a new build house or flat as a house in multiple occupation will not be permitted unless the development is purpose built for that use and that the Council will impose the restriction by applying a condition to planning permissions. A condition has therefore been attached to this recommendation regarding this matter.

CONSULTATIONS

Land and Air Quality, Protective Services	No objection subject to condition
Natural Heritage, Planning Services	No objection subject to condition
Transportation, Planning Services	No objection subject to condition

REPRESENTATIONS

10 letters of objection have been received in relation to this application in the form of a standard objection letter. The material considerations relating to these concerns have been addressed under sections 2.2 (Principle of Development), 2.3 (Visual Amenity), 2.6 (Road Safety) and 2.7 (Land Stability/Contamination) of this report of handling.

Concerns regarding the condition of the landholding, animal welfare, impact on the watercourse from the animals within the landholding are not a material consideration with regards this application.

CONCLUSIONS

The proposal is compatible with the area in terms of land use, and in addition the proposed dwelling could be designed in such a way to not cause any detrimental impact to the visual amenity and road safety of the surrounding area and is therefore considered to be acceptable. The proposal is considered to be acceptable in meeting the terms of the Development Plan, relevant National Guidance and relevant Fife Council Customer Guidelines.

RECOMMENDATION

It is accordingly recommended that the application be approved subject to the following conditions and reasons:

1. Two car parking spaces shall be provided within the curtilage of the dwellinghouse throughout the lifetime of this development in accordance with approve plan No. 2.

Reason: In the interests of road safety

2. Visibility splays of 3 metres by 140 metres to the left of the proposed site access, and 3 metres by 45 metres to the right shall be provided at the entrance to the curtilage of the dwellinghouse. Thereafter the visibility splays shall be permanently maintained free from any obstructions exceeding a height of one metre above the adjacent road channel levels.

Reason: To ensure the provision of adequate visibility at the junction of the vehicular access to the site and the public road, in the interests of road safety.

3. IN THE EVENT THAT CONTAMINATION IS ENCOUNTERED that was not identified by the developer prior to the grant of this planning permission, all development works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days.

Unless otherwise agreed in writing with the local planning authority, development work on site shall not recommence until either (a) a Remedial Action Statement has been submitted by the developer to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remedial measures are not required. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures. Thereafter remedial action at the site shall be completed in accordance with the approved Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement, a Verification Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remedial measures for the whole site have been completed in accordance with the approved Remedial Action Statement and a Verification Report in respect of those remedial measures has been submitted by the developer to and approved in writing by the local planning authority.

Reason: To ensure all contamination within the site is dealt with.

4. PRIOR TO THE COMMENCEMENT OF DEVELOPMENT a landscaping plan highlighting the native species of native origin shall be submitted to, and approved in writing by, Fife Council as planning authority. The garden boundary planting shall be species-rich native hedgerow, appropriate for this rural location. Thereafter the landscaping shall be planted in the first planting season following completion of the dwellinghouse.

Reason: In the interests of protecting and safeguarding the natural environment.

5. All planting carried out on site shall be maintained by the developer in accordance with good horticultural practice for a period of 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually.

Reason: In the interests of visual amenity and effective landscape management; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

6. The dwellinghouse hereby approved shall be used solely as a residence for (a) a single person or by people living together as a family; or, (b) not more than 5 unrelated residents living together in a dwellinghouse. For the avoidance of doubt the dwellinghouse hereby approved shall not be used for Housing in Multiple Occupation.

Reason: In the interests of maintaining a mixed and balanced housing stock as required by Policy 2 of the Adopted FIFEplan 2017.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

National Guidance:
Scottish Planning Policy (2014)
PAN33 – Development of Contaminated Land

Development Plan:
FIFEplan Local Development Plan (2017)
Making Fife's Places Supplementary Guidance (2018)
Low Carbon Fife Supplementary Guidance (2019)

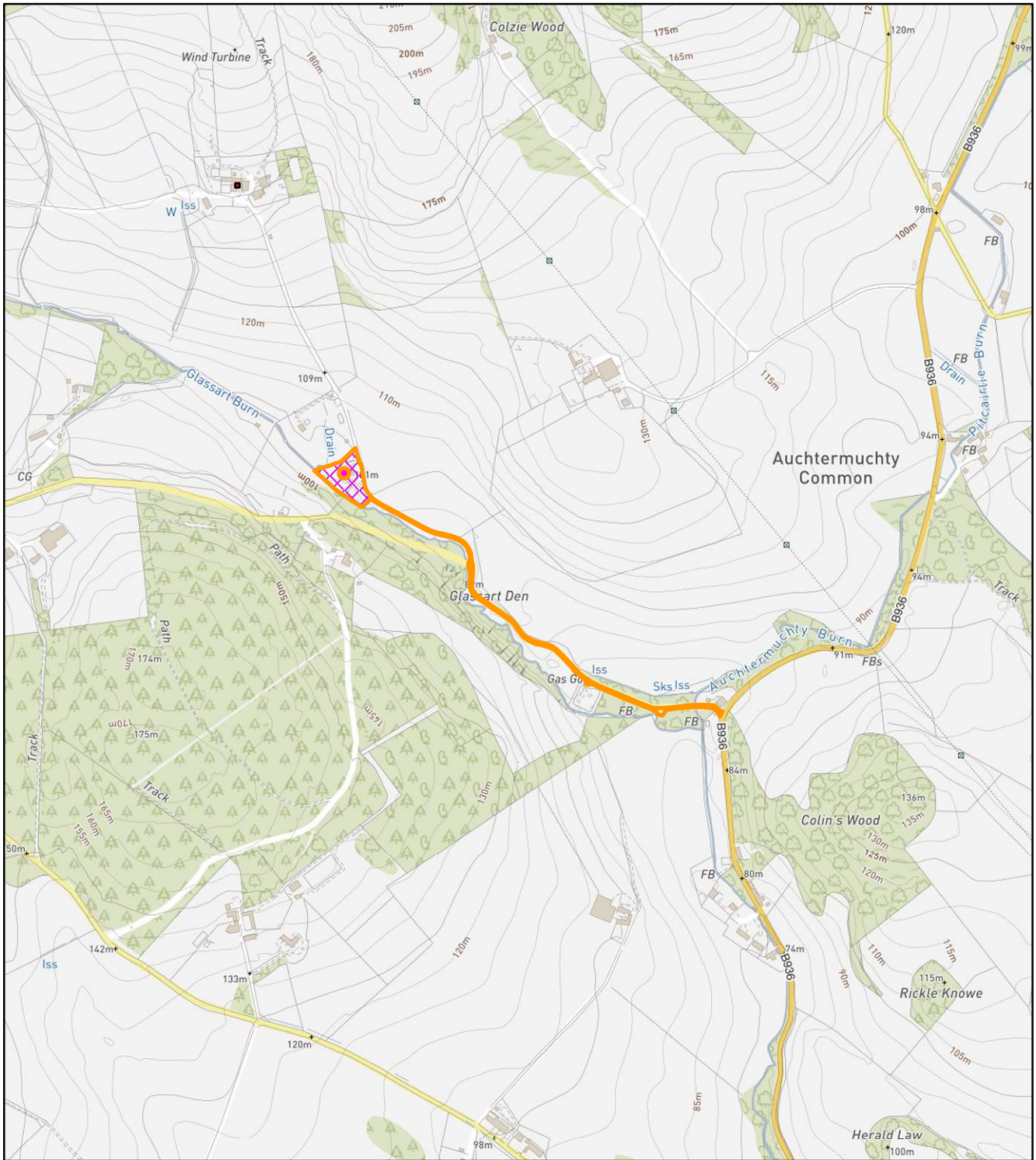
Other Guidance:
Fife Council Planning Customer Guidelines on Garden Ground (2016)
Fife Council Planning Customer Guidelines on Daylight and Sunlight (2016)

Report prepared by Scott McInroy (Planner, Development Management)

Report agreed and signed off by Alastair Hamilton, Service Manager (Committee Lead)
11/10/21.

Date Printed 23/09/2021

Pitmedden Farm

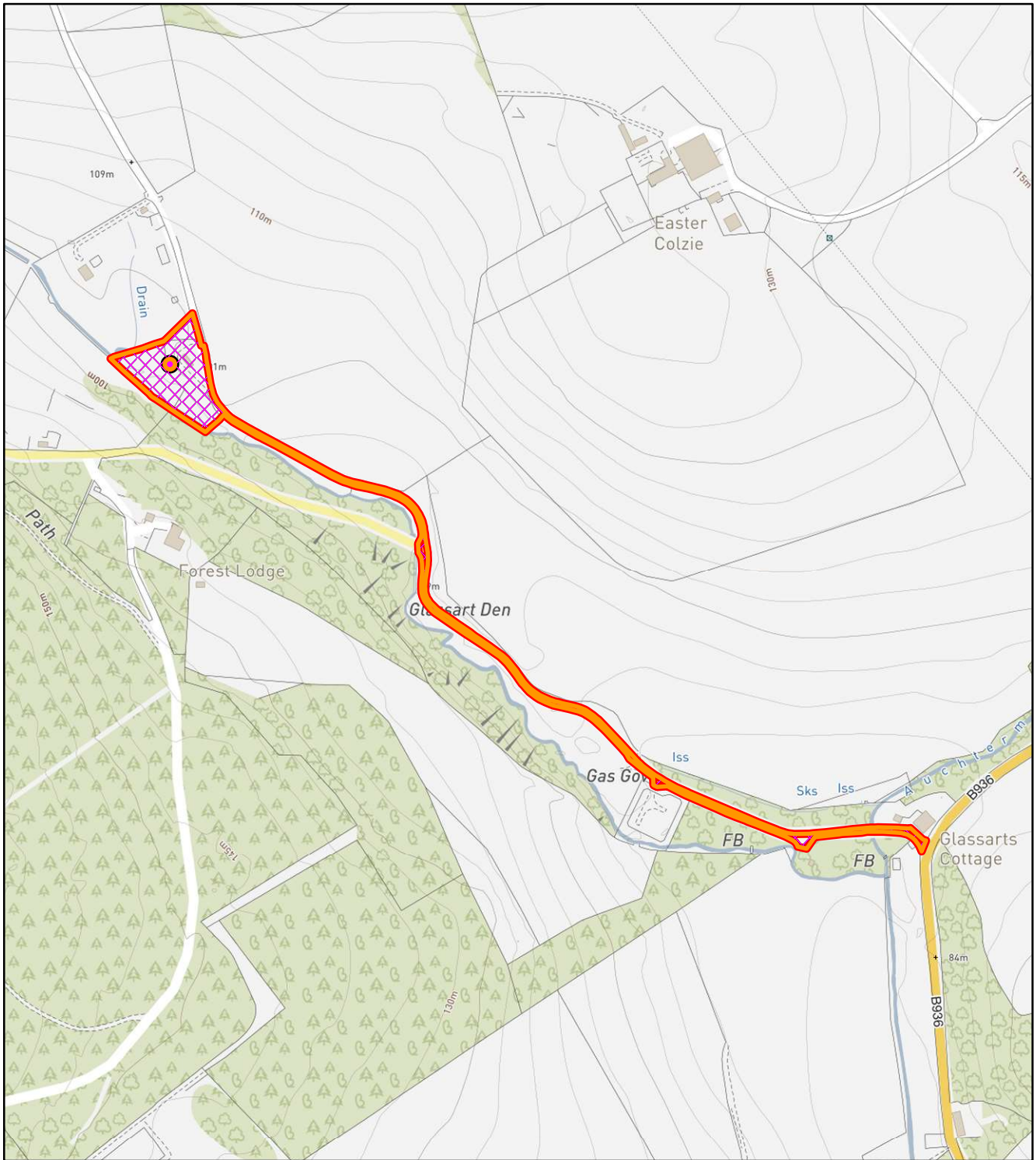


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Legend			 Fife COUNCIL Economy, Planning & Employability Services
 Application Boundary			

21/00913/FULL

Pitmedden Farm



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Legend			
	Application Boundary		

ITEM NO: 5

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/01091/FULL

**SITE ADDRESS: LAND 300M SOUTH OF BALMULLO FARM MOONZIE MILL
BALMULLO**

**PROPOSAL: ENGINEERING OPERATIONS TO CONSTRUCT AN
AGRICULTURAL LAGOON FOR THE STORAGE OF FARM
DERIVED DIGESTATE**

**APPLICANT: PEACEHILL FARMING LTD
PEACEHILL FARM WORMIT FIFE**

**WARD NO: W5R17
Tay Bridgehead**

CASE OFFICER: Alastair Hamilton

DATE REGISTERED: 19/04/2021

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 letters of objection have been received contrary to the case officer recommendation.

SUMMARY RECOMMENDATION

The application is recommended for: Conditional Approval

**ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL
CONSIDERATIONS**

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.0 Background

1.1 The application site is located approximately 300m to the south of the nearest residential property at the edge of Balmullo. The application is for the excavation of a pit to form a lagoon for the storage of liquid digestate from the applicants existing anaerobic digester plant located within the farm. The proposed lagoon would be constructed in an existing natural depression in a field to the south of the A914. The lagoon would be constructed partially in an excavation and partly within built up bunds formed from excavated material. The surface area of the lagoon would be 50 metres long by 50 metres wide and would be between 4.8m and 5.2 metres deep. Internally the sides of the lagoon would be sloped from the lip with the bund planted with grass. The applicant advises that the surface of the lagoon when filled would be restricted to be no higher than 75cms from the top of the bund. The lagoon would be surrounded by a 2 metre high security fence to provide security and site restrict access. The lagoon contents would be uncovered.

2.0 Planning Assessment.

2.1 The material planning issues to be assessed against the Local Development Plan and other guidance are:

- Principle of development
- Residential amenity
- Visual impact
- Road safety
- Low carbon

2.2 Principle of development

2.2.1 The Adopted FIFEplan Local Development Plan (2017) Policy 1 sets out the requirements for development principles. This policy supports development proposals providing they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. It further states the development will only be supported if it is in a location where the proposed use is supported by the Local Development Plan. In the instance of development in the countryside, the proposed development must be appropriate for the location through compliance with the relevant policies; in this instance, Policy 7.

2.2.2 Policy 7 of FIFEplan (2017) advises that development in the countryside will only be supported where it:

1. Is required for agricultural, horticultural, woodland, or forestry operations;
2. will diversify or add to the above land-based businesses to bring economic support to the existing business;
3. is for the extension of established businesses;
4. is for small-scale employment land adjacent to settlement boundaries, excluding green belt areas, and no alternative site is available within a settlement;
boundary which contributes to the Council's employment land supply requirements;
5. is for facilities for access to the countryside;
6. is for facilities for outdoor recreation, tourism, or other development which demonstrates a proven need for a countryside location;

In all cases, development must:

- be of a scale and nature compatible with surrounding uses;
- be well-located in respect of available infrastructure and contribute to the need for any improved infrastructure; and
- be located and designed to protect the overall landscape and environmental quality of the area.

2.2.3 The current proposal in so far as it relates to the construction of an agricultural lagoon related to the agricultural operation of the applicant within an existing farm is considered to comply with policy 7 criteria 1;2;3;6. as noted above. Having established the overall acceptability of the location in general land use terms the acceptability of the details of the proposal is considered further below.

2.2.4 It is recognised that the site is located within a section of agricultural land designated as Class 3.1 by the Hutton Institute Soil Survey of Scotland; given that the loss of land is a very small area in comparison to the overall farm holding which is classed as Prime agricultural land in its entirety the loss to productive crop raising of this small section is not significant and therefore complies with the terms of the SPP and the development plan.

2.3 Residential Amenity

2.3.1 Of the 171 objections received to the proposal virtually all of these highlight concerns regarding the potential odour which might arise from the proposed lagoon. The objections highlight concerns regarding the proximity of the proposed lagoon to the edge of Balmullo and the potential for odours to be prevalent at the nearest houses and be experienced more widely in the rest of Balmullo. Many objectors note that a similar facility currently operated by the applicant near Wormit is located more than 1 kilometre away from the nearest residential properties. Those who expressed support for the development advised that subject to the provisions of the Odour Management Plan they had no concerns about odour emanating from the site. Others caveated support on the basis that the lagoon should be covered to align with best proactive advice in England and Wales. Other farmers and landowners who wrote in sought to emphasise that the lagoon was to hold pre treated digestate and not raw slurry; therefore, there were no odour issues. In addition, those in support also advised that the digestate had been spread on the applicant's fields for between 3 and 5 years with no issues re odours. Issues relating to prevailing winds were also raised by objectors who contended that these would exacerbate the potential odour issue while letters of support indicated that the prevailing winds as measured from RAF Leuchars tended not to blow towards Balmullo. Other issues raised relating to the potential impact on house values are not material planning considerations.

2.3.2 The potential odour implications which might arise from the proposal were directly addressed by the applicant who commissioned an Odour Management Plan (OMP) which has been submitted as part of the supporting information with this application. The OMP was considered by Public Protection Environmental Health and the Environmental Health Officer (EHO) had no concerns regarding the likelihood of odours emanating from the site giving rise to complaints. The EHO considered that the monitoring and mitigation measures in place as set out in the OMP were proportionate and reasonable and the EHO had no objection to the proposal subject to the implementation of the monitoring and mitigation measures set out in the OMP. A condition is proposed to be added to the consent to ensure the OMP is implemented in full.

2.3.3 Notwithstanding the support expressed by the EHO for the mitigation measures, it is considered that it would be prudent to require the installation of a floating cover on the lagoon by way of applying a precautionary principle. The installation of the floating cover is cited in the OMP as one of the measures to mitigate against odours should complaints arise; however, a number of objectors reference developing guidance for digestate lagoons and similar open air holding tanks and ponds that these should be covered. It is considered notwithstanding the acceptance by the EHO of the facility to operate without a cover until such times as a nuisance arises and this to be addressed after the event; that from the perspective of securing residential amenity from a planning perspective, in the context of the proximity of the site to the village of Balmullo that the floating cover should be installed as part of the proposal from its commissioning. A condition is therefore proposed to require a cover to be installed prior to the commissioning of the proposed tank as added security to nearby residents. Subject to the inclusion of the above conditions the proposal is considered to comply with Policy 10 of FIFEplan.

2.4 Visual Impact

2.4.1 The proposed development is located adjacent to the A914 and is located on the south side of the road behind a hedge. The site is set within a depression at the edge of the field and would be excavated deeper within the depression with bunds formed to increase the depth of the lagoon. The bunds would be grassed to soften the edges of the proposed lagoon. A 2 metre high mesh fence is proposed to be erected around the lagoon for security and safety purposes. The site would be visible to passing motorists but given the hedgerow and trees adjacent to the road it is not considered that the development would be a prominent feature of the landscape. It is set into the landscape and is considered not to be discordant or detrimental to the overall visual and landscape character of the area. Given the limited scale of the development and its constructional and landscaping details the proposal is considered to comply with Policies 1,10 and 13 of the FIFEplan.

2.5 Road Safety

2.5.1 The proposal envisages the storage of currently excess digestate and the applicant is seeking to limit the traffic generated by transporting the digestate produced at their farm to provide an additional lagoon to feed the sprayers to spread onto the crops. The applicant advises this facility would not reduce the overall number of vehicle trips to service the fields at Hayston Farm, however at present due to the crop cycle during the crop feeding season between spring and autumn 7 tractors and tankers continuously travel to and from Peacehill Farm to fill a portable field tank servicing Hayston Farm. The installation of the proposed lagoon would enable these trips to be spread throughout the year thereby reducing the concentration of traffic within the busier period and utilising road capacity in the quieter winter months. A number of objections have indicated concerns regarding the facility creating additional road safety issues while letters of support indicate that the proposal would lessen the impact of vehicle trips. The Transportation Development Management section have no objection to the proposal. It is considered that given there is no increase in vehicle trips associated with the development and there is also a measure of mitigation by the existing number of vehicle trips being spread over the whole year as opposed to being more concentrated during a shorter period; the proposal is considered to comply with Policy 3 of FIFEplan.

2.6 Low Carbon and Renewable Energy

2.6.1 The proposal is related to the by product arising from the applicant's existing anaerobic digester plant. The applicant has an existing digestate lagoon associated with his farm at Peacehill which is currently used to store digestate. The proposal is associated with an existing renewable energy facility.

2.7 Other issues.

2.7.1 Some objectors highlighted issues about the potential impact on private water supplies in the area. Fife Council regularly monitor the quality of private water supplies and any cross contamination which is found which identifies the proposed facility as the source would be a private legal matter between the parties.

2.7.2 Objections have also been received relating to the lack of consultation regarding the development, there is no statutory requirement to consult with the community for this scale or type of development. It is understood however the applicant has met with the community as part of the application process. Other objections have cited a lack of details however it is considered sufficient details and information have been submitted to assess and determine the application.

CONSULTATIONS

Land and Air Quality, Protective Services	No comment
Transportation, Planning Services	No objection
Environmental Health (Public Protection)	No objection subject to implementation of the Odour Management Plan
Natural Heritage, Planning Services	No comments.

REPRESENTATIONS

208 items of correspondence expressing a view about the proposal have been received in relation to this application. There have been 170 objections and 28 letters of support (5 letters in support did not specify any details). 2 letters neither objecting nor supporting the application have been received. The remaining correspondence do not specify the details of the objection simply stating that the author objects or are duplicate objections from respondents who already objected.

The letters of objection raise the following issues; they are referred to within the body of the report as referenced by the paragraph numbers below:

- Odour- para 2.3
- Road safety from vehicles servicing the tank-para 2.5.1
- impact on water courses and private supply-para 2.7.1
- safety of the site-para 1.1/2.4
- visual impact- para 2.4.1
- loss of agricultural land- para 2.2.4
- lack of details of proposal- para 2.7.2
- health impact-para 2.3
- lack of consultation – para 2.7.2

- should be further away from Balmullo: Wormit lagoon 1km away from residential property. - para-2.3.1
- property values- para 2.3.1

The 28 letters of support note:

- nearest house is 400m not 270m
- prevailing winds do not blow towards the village for 10 months of the year
- No odour from the digestate spread on fields for last 5 years
- Not detrimental to Balmullo residents
- Environmentally friendly solution furthering renewable energy
- Reduces heavy machinery through the village
- visual impact would be limited
- supports a carbon neutral agenda
- subject to effective odour management plan and trees along the road are protected
- support subject to the lagoon being covered
- number of meetings adequate

The issues in support of the application are discussed throughout the report.

CONCLUSIONS

The application for the formation of a digestate holding lagoon is considered to comply with the relevant policies cited in the Local Development Plan: Policies 1,7(3), 10, 13 and 11; national policy and other relevant national and local planning guidance. The development is considered to be acceptable and complies with relevant policies in the development plan as noted above subject to the provision of a condition requiring the installation of a floating cover on the lagoon.

RECOMMENDATION

It is accordingly recommended that the application be approved subject to the following conditions and reasons:

1. The monitoring and mitigation measures set out in the Odour Management Plan shall be implemented in full.

Reason: In the interests of protecting residential amenity

2. Prior to the commissioning of the proposed digestate lagoon a proprietary floating cover designed for the purpose shall be installed and used at all times when digestate is held in the proposed lagoon. Exact details of the proposed floating cover shall be submitted for the prior written approval of Fife Council as Planning Authority.

Reason: In the interests of protecting residential amenity

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

National Guidance:

Scottish Planning Policy (2014)

Development Plan:
Adopted FIFEplan-Fife Local Development Plan (2017)
Low Carbon Fife Supplementary Guidance (2019)

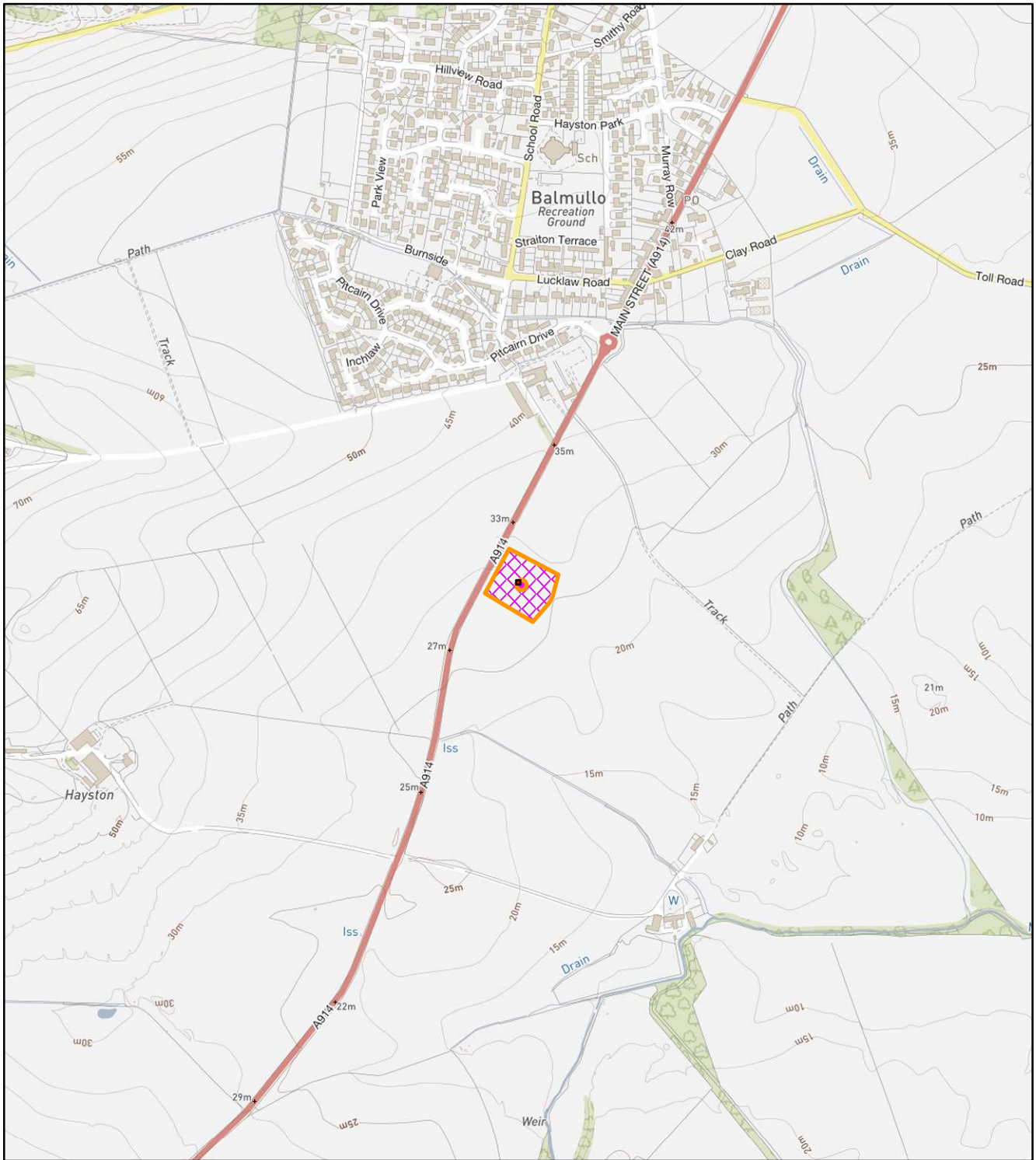
Other Guidance
Making Fife's Places Planning Policy Guidance (2018)

Report prepared by Alastair Hamilton, Case Officer
Report agreed and signed off by Pam Ewen, Head of Planning Services 11/10/21.

Date Printed 28/09/2021

21/01091/FULL

Land 300M South Of Balmullo Farm Moonzie Mill Balmullo

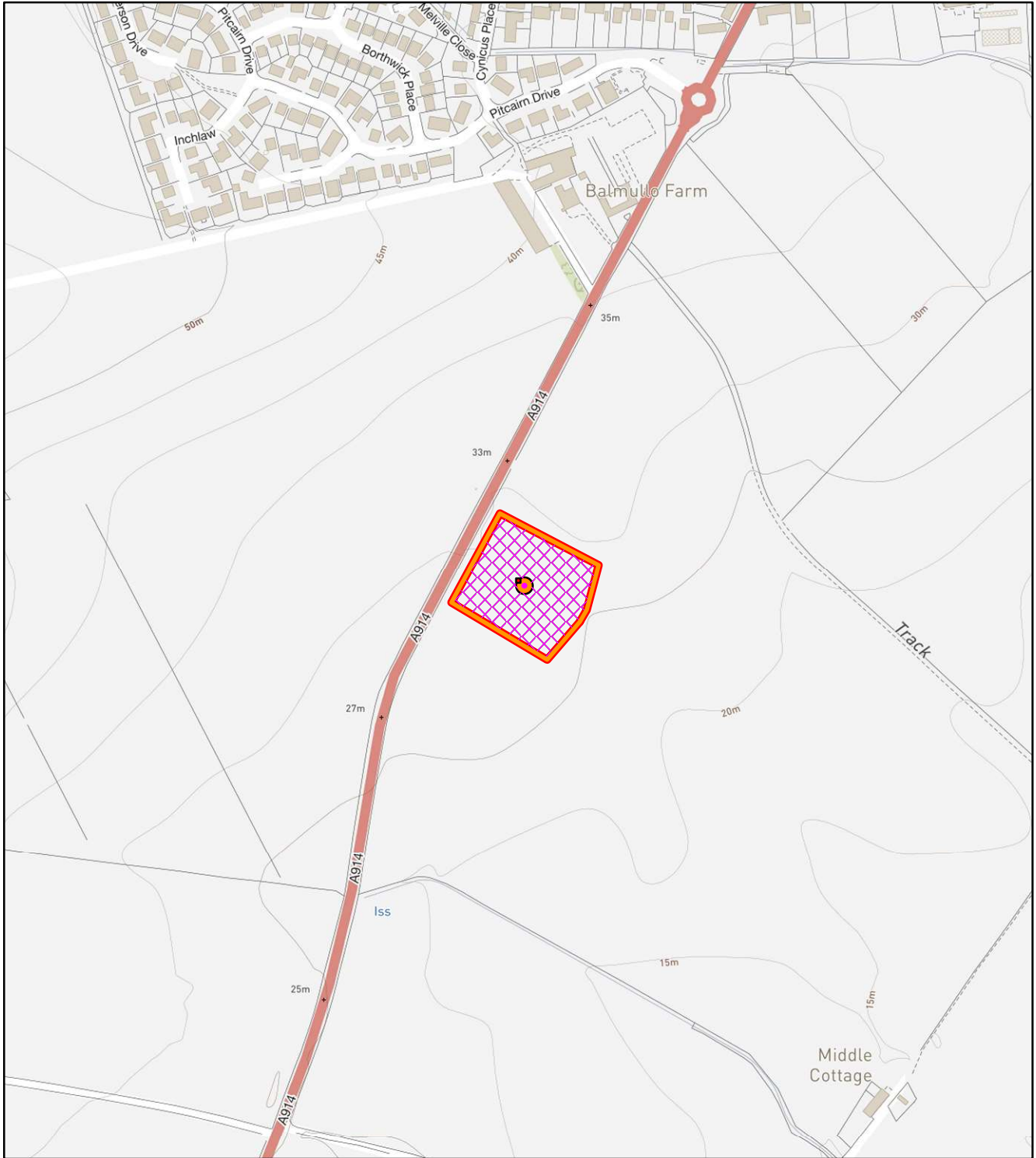


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Legend	
 Application Boundary	
0 50 100 200 300  m	
 Fife COUNCIL Economy, Planning & Employability Services	

21/01091/FULL

Land 300M South Of Balmullo Farm Moonzie Mill Balmullo



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Legend			
	Application Boundary		

0 25 50 100 150 m

ITEM NO: 6

**APPLICATION FOR PLANNING PERMISSION (EIA DEVELOPMENT) REF:
20/00568/EIA**

SITE ADDRESS: LAND AT KENLY FARMS KIPPO KINGSBARNES

**PROPOSAL: APPLICATION UNDER REGULATION 11 FOR RENEWAL OF
PLANNING PERMISSION 16/01425/EIA - ERECTION OF 6 WIND
TURBINES (100M TO TIP) AND ANCILLARY DEVELOPMENT
INCLUDING CONTROL BUILDING, CONSTRUCTION OF
ACCESS ROADS, UPGRADING OF EXISTING ACCESS ROAD
AND TEMPORARY CONSTRUCTION COMPOUND (SECTION
42 APPLICATION TO VARY PLANNING CONDITIONS 13, 14,
15, 16, 17, 18, 37 AND 38) AT LAND AT KENLY FARMS, KIPPO,
KINGSBARNES, FIFE**

**APPLICANT: UNIVERSITY OF ST ANDREWS
ESTATES OFFICE WOODBURN PLACE ST ANDREWS**

**WARD NO: W5R19
East Neuk And Landward**

CASE OFFICER: Martin McGroarty

**DATE 09/03/2020
REGISTERED:**

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The proposal relates to an application for wind turbines over 50 metres in height. The List of Officer's Powers requires such proposals to be considered by the planning committee. The recommendation is contrary to the objection submitted by a statutory consultee.

SUMMARY RECOMMENDATION

The application is recommended for: Approval, subject to planning conditions.

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 25 of the Planning Act the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.0 Background

1.1 The Site

1.1.1 The application site is located in the countryside and lies 5km to the southeast of St Andrews, 0.5km to the south of Boarhills and 2km west of Kingsbarns, at land associated with Kenly Farm. The site is currently accessed from a lane off the unclassified road that leads to the A917; the applicants have established an alternative access to the site via the B9131 and on to Station Road. Residential properties within the immediate vicinity include the tenant farmer's house and cottages at Lower Kenly, and the Upper Kenly Farmhouse and Farm Cottages which are currently unoccupied and derelict. It lies approximately 8 km from the Firth of Tay and Eden Estuary Special Protection Area (SPA) and 8km from Cameron Reservoir Special Protection Area. These sites also have overlapping Ramsar and Site of Special Scientific Interest (SSSI) designations.

1.1.2 The application site area is a farm unit of approximately 310 hectares in size and is, along with surrounding land uses, agricultural in nature. The application site comprises the farm unit of approximately 310 ha, with the proposed development sited to the south of the application area, and with the turbines proposed in an area to the south of the Upper Kenly farm buildings. It is an exposed site that has been in the ownership of the University for several centuries. The land is currently leased to the 4th generation of the same tenant farmer family. The land that forms the higher part of the site known as Upper Kenly was used as an airfield during the Second World War until it was redisposed back to the University Court in 1959.

1.2 Site History

1.2.1 Planning permission 11/02799/EIA, for the erection of 6 wind turbines and associated works, was submitted to Fife Council in May 2011 and refused planning permission in October 2012 by the North East Fife Planning Committee. The applicant subsequently exercised their right of appeal to Scottish Ministers and, under reference number PPA-250-2153, the appeal was upheld on October 2013 and permission for the Kenly Wind Farm was granted subject to conditions.

1.2.2 In October 2015, an application under Section 42 of the Planning Act was submitted under reference number 15/03495/EIA to amend the wording of Condition 18 (Aviation). It too was refused by the North East Planning Committee on 3rd February 2016. Again, an appeal to Scottish Ministers, under reference PPA-250-2153, was made and the Reporter allowed the appeal on 6th September 2016.

1.2.3 In April 2016, another application under Section 42 of the Planning Act was submitted under reference number 16/01425/EIA to amend the wording of Conditions 13 (Shadow Flicker), 14-17 (Noise), 18 (Aviation) and 37-38 (Transportation). This was also refused by the North East Planning Committee on 10th August 2016. Again, an appeal to Scottish Ministers, under reference PPA-250-2277, was made and the Reporter allowed the appeal on 10th March 2017, which was subject to a revised list of 37 conditions attached to the consent issued by the Reporter. As well as approving the appeal, the Reporter awarded costs against Fife Council in this matter.

1.2.4 A related application for the underground cabling and other infrastructure required for making the grid connection with the approved Kenly Windfarm was submitted on 15th March 2016 under reference 16/00873/EIA. This was refused by the North East Planning Committee on 25th August 2016. An appeal to the Scottish Ministers against this refusal led to the Reporter declining to determine the appeal on the grounds that there was a legal challenge related to the validity of neighbour notification procedure for planning application 16/00873/EIA.

1.3 The Proposal

1.3.1 This application seeks to extend the duration of the planning permission issued under the Reporter's decision (DPEA Ref. PPA-250-2177) through the submission of a 'Further Application' under Regulation 11 of the Town and Country Planning Development Management Procedure (Scotland) Regulations 2013. The planning permission issued by the Reporter was the result of an application made under Section 42 of the Planning Act to vary planning conditions 13, 14, 15, 16, 17, 18, 37 and 38 of planning permission 16/01425/EIA (as described above in paragraph 1.2.3). Whilst that planning permission expired on 10th March 2020, this current planning application was made prior to that deadline.

1.3.2 Planning permission for the 6 wind turbines and associated works of the Kenly Windfarm has existed, in various iterations, since permission was granted on appeal in October 2013, as detailed in Section 1.2 of this committee report. Through these various iterations of the original planning permission, the conditions of planning permission have been altered from those originally granted (through the process of planning applications and appeals) to those which were attached to the Reporter's decision on appeal PPA-250-2177, and which now form the conditions of planning permission that would be approved should Committee approve this current application.

1.3.3 The physical components of the proposals include:

- 6 wind turbines and associated infrastructure including foundations and hard standings;
- Construction of a site entrance and upgrading of the existing access track to the wind farm site;
- Construction of new internal tracks;
- Construction of a temporary site compound; and
- Construction of a new on-site substation including the control building and transformers.

1.3.4 The main elements of the proposal would not be amended through this application and thereby the renewal of planning permission would only allow the construction of that previously approved and outlined in this section of the report, subject to the planning conditions that have evolved via the various iterations of the planning permissions granted on appeal. This proposal does include the re-orientation (through 90 degrees) of the hardstanding leading to one of the turbines, to accommodate a protected species identified through the updated Environmental Report submitted with the application.

1.4 Application Process

1.4.1 The original application and this application is not considered a major development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

1.4.2 The application is supported by the original EIA submission documents and updated elements thereof, as agreed with Fife Council's Natural Heritage specialist. The original application (and subsequent Section 42 applications) were applied for and assessed under the 2011 EIA

regulations and therefore these still apply in this renewal, given the transitional provisions following the new 2017 regulations.

2.0 Assessment

2.1 The key issues relevant to an assessment of this application are the following:

- Circular 4/1998
- Consultation Responses
- Implementation

2.2 Circular 4/1998 (Renewal of Planning Permission criteria)

2.2.1 Circular 4/1998 - 'The Use of Conditions in Planning Permissions' states that, as a general rule, applications for the renewal of permission before expiry of time limits should be refused only where:

- a. There has been some material change in planning circumstances since the original permission was granted;
- b. There is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- c. The application is premature because the permission still has a reasonable time to run.

These 3 'tests' will be considered individually in the following paragraphs.

a. Material Change in Planning Circumstances

2.2.2 When the original planning application (16/01425/EIA) was considered, the Development Plan consisted of the Proposed TAYplan Strategic Development Plan and the Adopted St Andrews & East Fife Local Plan. In 2017, TAYplan was approved and the FIFEplan Local Development Plan (replacing the St Andrews & East Fife Local Plan) was adopted. No substantial changes occurred in terms of the relevant policies for this site brought about by the approval of TAYplan or the replacement of the Local Plan by FIFEplan to suggest that this assessment is out of date, with relevant policies from the previous Development Plan being reflected in the new one. The application site is still considered to be 'countryside' and is not subject to any other specific land designations, though the site is in close proximity to the southern boundary of the designated 'St Andrews to Fife Ness' Local Landscape Area. It was accepted that some elements of the original Environmental Impact Assessment documentation may no longer have been relevant given the passage of time, therefore dialogue with Fife Council's Natural Heritage specialist led to the submission of updated EIA information, principally the updating of Ecological Impact Assessments for various species of fauna. It is therefore considered that, whilst the Development Plan has been updated, the principle of development as assessed by previous applications remains sound.

2.2.3 Policy 11 "Low Carbon Fife" deals with onshore wind energy and is supported by the Low Carbon Fife Supplementary Guidance, which sets out a spatial framework for where wind farms may be acceptable in Fife, in line with Table 1 of SPP. Table 1 identifies what areas will likely be considered most appropriate for onshore wind farms. Wind farms will not be acceptable in National Parks and National Scenic Areas (Group 1) and may not be acceptable in other areas with national or international designations, nationally important mapped environmental interests or within areas specifically identified to separate existing communities (Group 2). Areas beyond Groups 1 and 2 (Group 3) are those where wind farms are likely to be acceptable, subject to detailed

considerations. Section 2.2.1 of Fife Council's Low Carbon Fife Supplementary Guidance relates to the Spatial Framework for Wind Turbines and the application site at Kenly is not located within an area of significant protection and is not located within the community separation buffer zone.

2.2.4 Given the time that has elapsed since the last appeal decision, it is appropriate to consider whether there has been any change in the landscape/visual impact context within which the Reporter made his decision on the application. In particular, whether any additional wind turbines have been approved and erected in that timeframe that would not have been considered in terms of intervisibility or cumulative impact at the last appeal. Three additional wind turbines have been approved since the last appeal decision that gave planning permission to the development now up for renewal – two 24.5m high turbines were approved at Easter Grangemuir, Pittenweem (7.3km south of Kenly windfarm site), whilst a single 67m high turbine was approved adjacent to the A92 Kirkcaldy to Dundee Road at Rathillet (20.5km to the northwest of Kenly windfarm site). The nature and location of these new turbines means that there has been no significant change in the landscape and visual impact context in which the Reporter made his decision on the last appeal.

2.2.5 Fife Council agreed to declare a climate emergency for Fife on 26 September 2019, which is another change to the policy framework within which the original permission was granted at appeal. Whilst the Climate Emergency plan does not contain any specific policies in relation to wind farms, it does support projects that decarbonise the heat and power generated and used in Fife.

2.2.6 Taking all of the above into account it is considered that, whilst the Development Plan has been updated, the principle of development as assessed by previous applications remains sound and, given that there are no other material considerations which require assessment, the application would pass the first relevant test.

b. Failure to Begin the Development

2.2.7 The development has not started on site yet. Significant matters related to a Radar Mitigation Strategy for aviation safety, and an approved route for connecting the windfarm to the grid, remain unresolved. The University is, however, still pursuing solutions to these matters and the situation regarding both can be protected by planning conditions, whereby matters relating to air safety and the grid connection are required to be agreed prior to the erection of any wind turbine.

2.2.8 The applicant wishes to keep open the option to implement the proposals, subject to being able to demonstrate compliance with the relevant planning conditions, which at this stage is heavily influenced by external factors beyond their control. The applicant remains committed to implementing measures to reduce the University's carbon footprint, working towards a net zero carbon position as soon as possible and, if practical, ahead of the Scottish and UK Government targets. The implementation of renewable energy generation technologies is a key component in the University's delivery against these objectives and, as such, the University considers it to be important that the ability to implement Kenly Wind Farm is retained.

2.2.9 Given the countryside location of the proposal, renewal of this planning permission would not prejudice future development strategies within the current development plan. A further consent would not be seen as prolonging an implementable planning permission to the detriment of wider development plan policies and therefore it is considered that the development would pass the second test for an appropriate renewal.

c. Prematurity

2.2.10 As the original planning permission was close to expiry when this renewal application was submitted, it is not considered that this application was premature and therefore the proposal would also pass the final test.

2.2.11 Overall, then, it is considered that the development would comply with the tests as set out within Circular 4/1998 - 'The Use of Planning Conditions in Planning Permissions' and therefore this application would not warrant refusal on this basis.

2.3 Consultation Responses

2.3.1 Consideration must be given to the views of consultees and whether they raise any material considerations which would warrant refusal of the renewal of the application.

Community Councils/Local Residents

2.3.2 Boarhills and Dunino, and Kingsbarns Community Councils have both objected to the renewal of the planning permission, as has a local resident. A summary of the objections is provided below in the "Representations" section of this Committee Report, and the individual matters raised in the objections are addressed in the appropriate sections of this Committee Report.

Drainage and Flooding/Contaminated Land

2.3.3 With regard to drainage and flooding, SEPA and Scottish Water have no objections to the renewal of the planning permission, whilst Fife Council's Flooding Shoreline and Harbours Team offers no comment on the renewal. From the point of view of contaminated land, part of the Kingsbarns Community Council objection to the renewal of the planning permission states that there has been a failure to undertake a site-specific risk assessment for contaminated land. SEPA notes the existing planning condition relating to the need to screen the site for possible radioactive contamination (Condition 29), given the site's previous use as a military airfield by the Ministry of Defence, and does not object to the renewal of the planning permission on the basis that Condition 29 is also attached to any renewal. Similarly, SEPA is content that Condition 30 of the existing planning permission, in conjunction with dialogue with Fife Council's Land and Air Quality team, is appropriate to secure control over the screening of other types of waste that may be encountered on site during construction. The Land and Air Quality Team is content that the existing conditions relating to radioactive material and other potential contaminants offer sufficient safeguards and they should be attached to any renewal of planning permission.

Archaeology/Built Heritage/Landscape

2.3.4 Historic Environment Scotland (HES) considers that there is sufficient information in the EIA report accompanying the planning application for it to conclude that the proposals do not raise historic environment issues of national significance and therefore it does not object to the renewal of planning permission, whilst Fife Council's Built Heritage team offers no comment on the renewal. Fife Council's Archaeologist has concerns that the potential for archaeological assets to be encountered on site during development is underplayed in the EIA accompanying the renewal application, noting that topography, land use and known archaeology in the area all strongly suggest the likely presence of significant archaeological deposits within the development area. With the addition of a suitably worded planning condition requiring an archaeological investigation

of the site before any works proceed however, Archaeology has no objection to the renewal of the planning permission. Both Kingsbarns, and Boarhills and Dunino, Community Councils object to the landscape impact of the proposal. The landscape impact was fully considered when the existing planning permission was granted at appeal and nothing in this renewal application would adversely alter the landscape impact of the proposed development. Fife Council's Urban Design specialist notes that the previously approved amendment of Condition 37 (forming on-site roads from crushed stone rather than bituminous material as originally specified) would be more reflective of agricultural access tracks within the countryside context of the site and have less of a visual impact from a landscape perspective.

Natural Heritage

2.3.5 SEPA has no objection in relation to ecology, noting that the development area is largely arable and pasture with no peat recorded. No groundwater dependent terrestrial ecosystems (GWDTEs) are to be impacted by the footprint of the development and SEPA is satisfied that the area of damp ground in the west of the site will be undisturbed. NatureScot has no objection to the renewal of planning permission. Fife Council's Natural Environment specialist is content that the updated EIA sections submitted with this renewal application adequately cover the ecological interest on the site and, subject to the relevant mitigation measures being secured by planning condition, has no objection to any renewal of the planning permission.

Amenity

2.3.6 Boarhills and Dunino Community Council's objection refers in part to impacts of the proposed development on amenity due to the proximity of dwellings and to noise arising from the development. These matters were all considered at the time the previous applications were approved at appeal and planning conditions safeguarding local amenity were attached, and would be re-applied, to planning permission. Fife Council's Environmental Health Public Protection Team has no objection to the proposed renewal of planning permission.

Roads

2.3.7 All three objectors to this proposed renewal raise matters related to road safety and the suitability of the access road serving the windfarm. These matters were all considered at the time the previous applications were approved at appeal and planning conditions relating to Transportation matters were attached, and would be re-applied, to any renewal of the planning permission. Whilst Fife Council's Transportation Development Management (TDM) Team has no objection to the proposed renewal of planning permission, it notes that there is no planning permission in place for an agreed route for the grid connection, which is another point of objection raised by both Kingsbarns and Boarhills and Dunino Community Councils. TDM recommends that it would be prudent to include an additional planning condition if this application is approved to ensure that details of the grid connection are agreed prior to commencement of any works on site. This is included as condition 38.

Aviation Considerations

2.3.8 Both Community Councils cite the failure of the applicant to agree a mitigation scheme for Air Traffic Control/Radar as a reason for their objection to the renewal of planning permission. The MOD wrote to Fife Council in May 2016 advising that it had no objections to the wording of the Radar Mitigation Scheme condition being varied under planning application reference 16/01425/EIA, which was subsequently approved at appeal. The MOD has no objections subject to the conditions covering radar mitigation and aviation lighting being reapplied to any renewal of

planning permission. The Civil Aviation Authority offered no comment on the matter, whilst Dundee Airport has no objection to the proposed renewal of planning permission, indicating that its calculations show that, at the given position and height, the development would not impact the safeguarding criteria for Dundee Airport. Given this, it is considered that the existing wording of planning conditions, whereby matters relating to air safety are required to be agreed prior to the erection of any wind turbine, offers sufficient safeguarding in this context.

Other Matters Raised in Objections

2.3.9 Boarhills and Dunino raise an objection to renewal of planning permission on the basis of the potential impact on television reception of developing the windfarm, whilst Kingsbarns Community Council considers that the proposal is contrary to FIFEplan Policy 7 “Development in the Countryside”. There are existing conditions on the planning permission related to the question of potential impacts on TV reception, Conditions 17 and 18, which provide a robust framework for measuring and mitigating any impacts experienced by domestic television viewers. With regard to Policy 7 “Development in the Countryside”, the suitability of the proposed site for the proposed development was considered at the time the previous applications were approved at appeal and, as detailed in paragraph 2.2.2 of this Committee Report, whilst the Development Plan has been updated, the principle of development as assessed by previous applications remains sound. With respect to Mr Scrymgeour-Wedderburn’s point that he was not notified of this application, the notification process was carried out to meet the relevant statutory requirements and the case record indicates correspondence was issued to Mr Scrymgeour-Wedderburn.

Conclusion

2.3.10 The consultation responses raise no matters of concern that would warrant refusal of the application.

2.4 Implementation

2.4.1 The conditions of the previous planning permission are all considered relevant for the renewal and should be attached to any approval of this planning permission. In addition, a condition should be attached requiring the approval of a route for the grid connection to be in place before work starts on the windfarm. This is included as condition 38.

CONSULTATIONS

HESEIA	No objection.
Scottish Water	No objection.
Scottish Environment Protection Agency	No objection subject to planning condition.
Historic Environment Scotland	No objection.
Community Council	Objection submitted by Boarhills and Dunino CC. See Representations section.
NatureScot	No objection.
Ministry of Defence (Wind Turbines)	No objection subject to planning conditions.
Directorate of Airspace Policy	No comments received.
Highlands and Islands Airports Ltd/ Dundee Airport	No objection.
Archaeology Team, Planning Services	No objection, subject to planning condition.

Built Heritage, Planning Services	No comment.
Strategic Policy and Tourism	No comments.
Natural Heritage, Planning Services	No objection.
Trees, Planning Services	No comments.
Urban Design, Planning Services	No objection.
Land and Air Quality, Protective Services	No objection subject to planning conditions.
Structural Services - Flooding, Shoreline and Harbours	No comment.
Environmental Health (Public Protection)	No comments.
Transportation, Planning Services	No objection subject to planning conditions.
Community Council	Objection submitted by Kingsbarns CC. See Representations section.

REPRESENTATIONS

Boarhills and Dunino Community Council objects to the application on the basis that:

- a) Landscape impact (see paragraph 2.3.4);
- b) Proximity to dwellings (see paragraph 2.3.6);
- c) Noise (see paragraph 2.3.6);
- d) Access route inappropriate due to narrowness and strength of road (see paragraph 2.3.7);
- e) No agreed route for grid connection (see paragraph 2.3.7);
- f) Failure to agree mitigation scheme for Air Traffic Control/Radar (see paragraph 2.3.8); and
- g) Potential impact on TV reception (see paragraph 2.3.9).

Kingsbarns Community Council objects to the application on the basis that:

- a) Failure to negotiate a Radar Mitigation Scheme over a significant number of years - at least 9 (see paragraph 2.3.8);
- b) Failure to achieve planning permission for grid connection (see paragraph 2.3.7);
- EIA documents out of date (see paragraph 2.3.5);
- c) Failure to undertake a site-specific risk assessment for contaminated land as indicated by the report from Land Air and Quality (See paragraph 2.3.3);
- d) Contrary to Fife Development Plan Policy 7 relating to development in the Countryside (see paragraph 2.3.9);
- e) Contrary to Fife Development Plan Policies 13 and 15 to safeguard the character and qualities of the landscape (see paragraph 2.3.4); and
- f) Contrary to Fife Development Plan Policy 3 relating to managing transport measures to minimise and manage future levels of traffic generated by the proposal (see paragraph 2.3.7).

Mr John Scrymgeour-Wedderburn objects to the application on the basis that use of road, which has nothing to do with Kenly farm, past his house for development traffic would be intolerable and unsafe for people and animals. (see paragraph 2.3.7). Also concerned that, as an interested party, he was not consulted on the application (see paragraph 2.3.9).

CONCLUSIONS

The renewal of this planning permission is considered to be acceptable. The renewal of this planning permission would not raise any conflict with the existing Development Plan that could not be resolved by the application of planning conditions. Whilst significant matters such as radar mitigation and connection to the grid remain to be resolved, these are covered by suspensive planning conditions to ensure that no turbines are erected before all matters are satisfactorily resolved, and the proposal continues to form a fundamental strand of the applicant's drive to reduce the University's carbon footprint, working towards a net zero carbon position as a direct response to the climate emergency. In this respect, a renewal of planning permission is in line with the existing principle of the proposed development. The renewal would meet the tests set out within Circular 4/1998 (The Use of Planning Conditions in Planning Permissions) with the addition of appropriate conditions.

RECOMMENDATION

Approval subject to conditions.

1. The permission hereby granted shall be for a period of twenty five (25) years from the date that electricity is first supplied to the local grid (such date to be notified in writing to the planning authority within one month of this supply) at which time, unless with the express prior approval of the planning authority, the wind turbines, any buildings or ancillary equipment shall be dismantled and removed from the site, and the ground reinstated in accordance with the ground restoration plan approved through condition 3.

Reason: in the interests of visual amenity; in order that the planning authority has the opportunity to review the circumstances pertaining to the consent, which is of a temporary nature.

2. In the event that any wind turbine fails to produce electricity supplied to the local grid for a continuous period of six months then it shall be deemed to have ceased to be required and, unless otherwise agreed in writing with the planning authority, the wind turbine and ancillary equipment shall be dismantled and removed from the site within the six months from the date of notification by the planning authority and the ground reinstated in accordance with the ground restoration plan approved through condition 3.

Reason: in the interests of visual and residential amenity and to ensure a full and satisfactory restoration of the wind farm site should all or part of the development fall into disuse.

3. BEFORE ANY WORKS START ON SITE, a ground restoration plan and planting proposals shall be submitted to and approved in writing by the planning authority. The plan shall include provision for the following scenarios: borrow pits, cabling, failure to erect turbines, decommissioning, failure to produce electricity. Unless otherwise confirmed in writing by the planning authority the approved plan shall be implemented as approved, with planting being carried out within the first available planting season.

Reason: in the interests of visual and residential amenity and to ensure a full and satisfactory restoration of the wind farm site.

4. BEFORE ANY WORKS START ON SITE, confirmation of the final specification of wind turbines to be erected on site shall be submitted to and approved in writing by the planning authority. The chosen turbine shall then be erected on site unless otherwise confirmed in writing by the planning authority. In addition, a revised noise assessment for the turbines (if it is not the one currently under consideration) demonstrating the capacity of the turbines to comply with condition 14, relating to noise, shall be submitted to and approved in writing by the planning authority.

Reason: to ensure that the eventual wind turbine chosen for the site is of a design and height as approved and is capable of compliance with noise and other conditions set out below.

5. The wind turbine blades shall rotate in the same direction.

Reason: to avoid movement in two directions in the interests of visual and residential amenity.

6. The wind turbines including the towers and blades shall be finished in a non-reflective light grey colour with a semi-matt finish. BEFORE WORKS START ON SITE, the detail of the exact colour shall be approved in writing by the planning authority, and thereafter implemented as approved.

Reason: to reduce the impact of the turbines and minimise reflection in the interests of visual amenity.

7. All cables between the turbines and adjacent buildings within the site boundary shall be laid underground. Thereafter, the ground shall be reinstated in accordance with the ground restoration plan approved through condition 3.

Reason: to ensure the site is restored in the interests of visual and residential amenity.

8. The site shall not be illuminated by lighting, other than the service lighting required under safety requirements for tall structures and any air safety lighting required by other authorities or bodies (see condition 19), without the prior written approval of the planning authority.

Reason: to protect nearby residents and the environment from light pollution in the interests of visual and residential amenity.

9. No symbols, signs, logos or other lettering shall be displayed on any part of the wind turbines nor on any other buildings or structures, unless required by health and safety legislation, without the prior written approval of the planning authority.

Reason: to avoid unnecessary signage in the rural environment in the interests of visual amenity.

10. Each turbine hereby approved shall be erected in the positions shown on plan PA3 (Rev B) – Proposed Windfarm Layout dated June 2011. A variation of the indicated position of any turbine on the said drawing shall be permitted by up to 20 metres. The repositioning of any turbine by more than 20 metres shall be subject to the prior written approval of the planning authority. BEFORE ANY WORKS START ON SITE, a plan specifying the exact turbine layout shall be submitted to and approved in writing by the planning authority. Thereafter, the turbines shall be positioned as approved.

Reason: in the interests of visual amenity and protecting the archaeological and natural heritage, to ensure that any micro- siting avoids areas of archaeological and natural heritage.

11. No later than six months following the commissioning of the last turbine on site, all temporary contractor's site compounds shall be removed and the land reinstated to its former profile and condition in accordance with the ground restoration plan approved through condition 3.

Reason: to ensure temporary compounds do not leave a footprint on site in the interests of visual amenity and protecting the natural heritage.

12. BEFORE ANY WORKS START ON SITE, details relating to the provision of measures to prevent operation of the turbines in icy conditions where such weather conditions may pose a risk to walkers or those using the area for recreation purposes shall be submitted to and approved in writing by the planning authority, and thereafter implemented as approved.

Reason: in the interests of health and safety and to ensure that all existing access routes are protected and not adversely affected by the development.

Shadow flicker

13. PRIOR TO THE OPERATION OF DEVELOPMENT, the applicant shall submit to the planning authority a scheme for mitigating the effects of shadow flicker on the occupants of nearby residential properties. The operation of the development shall not start until the planning authority gives its approval of the scheme in writing. This scheme shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure nearby residents are protected from adverse shadow flicker in the interests of residential amenity.

Noise

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

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

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

C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Authority for written

approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Authority for the complainant's dwelling.

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

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

- i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.
- ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

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

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

Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Authority with the independent consultant’s assessment of the rating level of noise emissions.

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

H) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Local Authority on its request within 14 days of receipt in writing of such a request.

Note: For the purposes of this condition, a “dwelling” is a building within Use Classes 7, 8 and 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this permission. The values set out in Tables 1 and 2 below for Upper Kenly shall only apply for the purposes of this condition in the event that the property is lawfully occupied as a dwelling and at all other times there shall be no noise limits applying to Upper Kenly.

Table 1 - Between 07:00 and 23:00 - Noise level dB LA90, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L _{A90} Decibel Levels											
Upper Kenly (356437, 711726)	45	45	45	45	45	45	45	45	45	45	46	47
Primrose Cottage (355354, 712088)	35	35	35	35	35	38	40	43	44	45	46	47
Balkaithly (354859, 711058)	35	35	35	35	35	38	40	43	44	45	46	47
Drumly (355154, 710183)	35	35	35	35	37	40	43	47	50	54	56	58
Swinkie (355724, 710253)	35	35	35	35	37	40	43	47	50	54	56	58
Poultry Farm (357344, 711793)	35	35	35	35	37	40	43	47	50	54	56	58
Kilduncan (357544, 712033)	35	35	35	35	37	40	43	47	50	54	56	58
Peekie Mill (355974, 712648)	35	35	35	35	35	38	40	43	44	45	46	47
North Quarter (357329, 711218)	35	35	35	35	37	40	43	47	50	54	56	58

Table 2 - Between 23:00 and 07:00 - Noise level dB LA90, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L _{A90} Decibel Levels											
Upper Kenly (356437, 711726)	45	45	45	45	45	45	45	45	45	47	49	51
Primrose Cottage (355354, 712088)	43	43	43	43	43	43	43	43	43	47	49	51
Balkaithly (354859, 711058)	43	43	43	43	43	43	43	43	43	47	49	51
Drumly (355154, 710183)	43	43	43	43	43	43	43	46	50	53	56	59
Swinkie (355724, 710253)	43	43	43	43	43	43	43	46	50	53	56	59
Poultry Farm (357344, 711793)	43	43	43	43	43	43	43	46	50	53	56	59
Kilduncan (357544, 712033)	43	43	43	43	43	43	43	46	50	53	56	59
Peekie Mill (355974, 712648)	43	43	43	43	43	43	43	43	43	47	49	51
North Quarter (357329, 711218)	43	43	43	43	43	43	43	46	50	53	56	59

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

Guidance Notes for Noise Condition:

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

Note 1

(a) Values of the LA90,10-minute noise statistic should be measured at the complainant’s property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.

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

(c) The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. Each 10 minute arithmetic average mean wind speed data as measured at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10 minute periods shall commence on the hour and in 10 minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

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

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise emissions. The gauge shall record over successive 10 minute periods synchronised with the periods of data recorded in accordance with Note 1(d). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Local Authority prior to the commencement of measurements.

Note 2

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

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

(c) Values of the LA90,10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on

the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

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

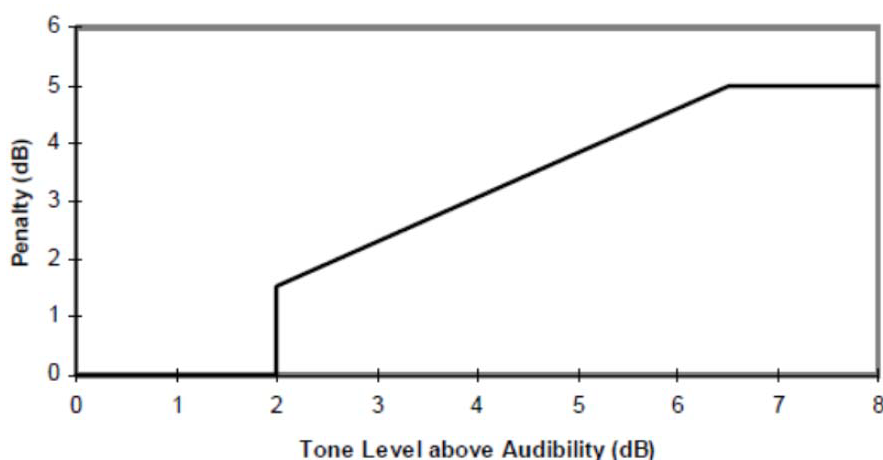
(b) For each 10-minute interval for which LA90,10-minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise emissions during 2 minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

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

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

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

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



Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) of the noise condition.

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

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

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

i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.

ii. The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

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

Reason: To minimise noise distribution and protect the amenity of nearby residents.

Aviation

15. PRIOR TO THE COMMENCEMENT OF THE ERECTION OF ANY WIND TURBINE, a Radar Mitigation Scheme shall be submitted to and approved in writing by the planning authority in consultation with the Ministry of Defence. The Radar Mitigation Scheme shall set out the

appropriate measures to be implemented to mitigate the impact of the development on the Radar (see below) and shall be in place for the operational life of the development so long as the Radar remains in operation. No turbines shall become operational until all measures required by the approved Radar Mitigation Scheme are implemented as confirmed in writing by the planning authority. The development shall thereafter be operated fully in accordance with the approved Radar Mitigation Scheme. For the avoidance of doubt, the “Radar Mitigation Scheme” means a scheme designed to mitigate the impact of the development upon the operation of the Watchman Primary Surveillance Radar at the MOD establishment Leuchars Station (“the Radar”) and air traffic control operations of the Ministry of Defence which are reliant upon the Radar.

Reason: to ensure adequate measures are in place to mitigate radar interference in the interests of protecting air safety.

16. Ministry of Defence accredited 25 candela omni-directional aviation lighting or infrared aviation lighting shall be installed on the nacelles of all turbines. The turbines shall be erected with this lighting installed and the lighting will remain operational until such a time as the wind turbines are decommissioned and removed from site.

Reason: to ensure pilots are aware of the turbines in the interests of protecting air safety.

Television reception

17. BEFORE ANY WORKS START ON SITE, the developer will carry out a baseline TV survey to establish the current TV signal strength at all locations identified within the Environmental Statement as potentially affected by the turbines hereby approved and also any other selected distances of up to three kilometres from the centre of the site. Such locations shall be approved in writing by the planning authority prior to the carrying out of the survey.

Reason: to ensure the current level of TV signal available in the area is recorded to allow any future mitigation measures to be properly assessed.

18. Any adverse impact on television reception directly attributable to the operation of the windfarm on any of the surrounding residential properties to the windfarm shall be fully investigated and any measures to alleviate a valid problem shall be fully implemented. For the avoidance of doubt the applicant shall be responsible for the cost of investigating any problem with regard to television reception interference and meet the full cost of implementing any mitigation measures. Before any works start on site, details of any mitigation measures and a programme for their implementation shall be submitted to and approved in writing by the planning authority. Unless otherwise approved in writing with the planning authority, a report on the number of complaints raised with regard to this issue and how the complaint has been resolved shall be submitted on a six monthly basis to the planning authority.

Reason: to ensure television reception is maintained and the situation monitored in the interests of residential amenity.

Telemetry link

19. BEFORE ANY WORKS START ON SITE, details of a scheme to mitigate any interference with Scottish Water radio telemetry links shall be submitted to and approved in writing by the planning authority in consultation with Scottish Water, and thereafter implemented as approved.

Reason: in order to mitigate radio interference in the interests of clear telecommunication links.

Wildlife and habitats

20. BEFORE ANY WORKS START ON SITE:

- (i) An ecologist approved by the planning authority in consultation with Scottish Natural Heritage shall carry out a re-survey of protected species.
- (ii) A Protected Species Management Plan (based on the findings of the original survey and re-survey) shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage. The plan shall include mitigation measures designed to safeguard protected mammals within and adjacent to the operational areas of the site.
- (iii) A Habitat Management Plan (HMP) shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds Scotland. The plan shall include a scheme for habitat enhancement and for monitoring the impact of development on birds and bats (including casualties) and shall be submitted to the planning authority at regular intervals to be prescribed within the HMP.
- (iv) A site specific Ecological Mitigation Strategy shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage.

Unless otherwise approved in writing by the planning authority, the plans/strategies shall be implemented as approved for the duration of the planning permission hereby approved.

Reason: to ensure the situation has not changed since the initial protected species survey, and to minimise the environmental impact of construction and operational activities resulting from the proposed development in the interests of protecting the natural heritage.

Environment

21. BEFORE ANY WORKS START ON SITE, a Construction Method Statement (CMS) detailing the pollution control measures, an Environmental Management Plan and a Pollution Prevention Plan (which may include details set out in condition 25) shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. Thereafter the construction of the turbines shall comply with the details as approved.

Reason: in the interests of protecting the surrounding area during the construction, operation, and decommissioning of the wind turbines.

22. BEFORE ANY WORKS START ON SITE, a monitoring plan shall be submitted to and approved in writing by the planning authority setting out the steps that shall be taken to monitor the environmental effects of the development during the construction phase and the operational phase. The plan shall also outline a methodology for developing avoidance and mitigation measures to address any adverse environmental effects identified during the course of the monitoring. The plan shall be reviewed and amended where necessary at intervals to be approved by the planning authority. The plan shall make specific reference to ground water, surface water, noise and dust. Thereafter, the plan as approved or amended as the case may be, shall be implemented within timescales to be approved by the planning authority.

Reason: to minimise the environmental impact of construction and operational activities resulting from the proposed development in the interests of protecting the natural heritage.

23. BEFORE ANY WORKS START ON SITE, a Groundwater Management Plan covering water treatment and the means of drainage from all hard surfaces and structures within the site shall be submitted to and approved in writing by the planning authority, and thereafter implemented as

approved. For the purposes of this condition, 'hard surfaces' includes internal access tracks, construction and laydown areas, turbine pads and crane pads. The details to be submitted shall indicate the means of protecting groundwater, including private water supplies, and diverting surface water run-off, and shall allow for the recharging of any peat or other wetland areas within the site.

Reason: to minimise the environmental impact of construction and operational activities resulting from the proposed development in the interests of protecting the natural heritage and the water environment.

24. BEFORE ANY WORKS START ON SITE, details of any ground extraction works/borrow pit requirements shall be submitted to and approved in writing by the planning authority, and thereafter implemented as approved. For the avoidance of doubt, the submitted details shall include existing and proposed ground level heights/sections, methods of extraction and any remedial works required thereafter.

Reason: to minimise the environmental impact of construction and operational activities resulting from the proposed development in the interests of visual amenity and protecting the natural heritage.

25. BEFORE ANY WORKS START ON SITE, a full site waste management plan shall be submitted to and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency. Thereafter, all works shall be carried out in accordance with the approved plan.

Reason: to ensure that waste material on the site is managed in a sustainable manner.

Contamination

26. BEFORE ANY WORKS START ON SITE, a site investigation report on the potential for radioactive contamination, and mitigation measures to ensure members of the public are protected should contamination be found, shall be submitted to and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency. Any required mitigation shall then be carried out in accordance with the approved report. The report should be produced in consultation with the Defence Infrastructure Organisation.

Reason: to ensure that there is no contamination at the site in the interests of environmental protection.

27. The presence of any previously unsuspected or un-encountered contamination that becomes evident during the development of the site shall be brought to the attention of the planning authority and the Scottish Environment Protection Agency (SEPA) in writing within one week of its detection. At this stage, a comprehensive contaminated land investigation and mitigation report shall be carried out at the expense of the developer and submitted to and approved in writing by the planning authority in consultation with SEPA. Thereafter, any required mitigation measures shall be carried out in accordance with report.

Reason: to ensure all contamination within the site is dealt with.

Transportation

28. BEFORE ANY WORKS START ON SITE, a Traffic Management Plan (TMP) shall be submitted to and approved in writing by the planning authority in consultation with Transport Scotland. The TMP shall include details of all aspects of transport related movements including the scheduling and timing of construction vehicles, swept path analysis diagrams at all junctions on the abnormal load route, traffic management arrangements to be put in place during the decommissioning work, and a scheme for the monitoring and maintenance of the road network during construction and decommissioning (particularly the haul route). Unless otherwise approved in writing by the planning authority, the plan shall be implemented as approved.

Reason: In the interests of road safety; to ensure that all traffic impacts resulting from the construction and decommissioning activities at the site can be fully addressed; and to ensure that the road network is maintained to a safe standard.

29. BEFORE ANY WORKS START ON SITE, details (including a plan(s) at a scale no less than 1:200) of the access tracks, including details of widths, parking and turning areas, watercourse crossing points, and cutting and embankment treatments and full restoration strategy in accordance with the plan approved through condition 3 shall be submitted to and approved in writing by the planning authority, and thereafter implemented as approved. For the avoidance of doubt, all access tracks shall be constructed at ground level.

Reason: in the interest of road safety, visual amenity and environmental protection.

30. BEFORE ANY WORKS START ON SITE, full details of wheel cleaning facilities to be provided at the entrance/exit to the site shall be submitted for approval in writing by the planning authority. The approved facilities shall be provided, retained and maintained for the duration of the construction and decommissioning phases of the scheme.

Reason: in the interests of road safety; to eliminate the deposit of mud, debris or other deleterious material on public roads.

31. A turning area suitable for use by the largest size vehicles expected to visit the site shall be provided within the site. Before any works start on site, details showing the design, layout and location of the turning area at a scale of no less than 1:200 shall be submitted to and approved in writing by the planning authority. Thereafter the approved turning area shall be constructed for use throughout the duration of the site operations.

Reason: to ensure no vehicles reverse onto the main road in the interests of road safety.

32. Before the access to the site is brought into use, visibility splays at all junctions and accesses onto public roads shall be provided and permanently maintained free from all obstructions exceeding one metre in height above the adjacent road channel levels.

Reason: to ensure the provision and maintenance of adequate visibility at junctions and accesses in the interests of road safety.

33. BEFORE ANY WORKS START ON SITE, details of the proposed vehicular access to the site at a scale of not less than 1:200, and details of all proposed signage at the access bellmouth, shall be submitted to and approved in writing by the planning authority, and thereafter implemented as approved.

Reason: to ensure safe and convenient access to and from the site; and to ensure that the signage is not a distraction to road users in the interests of road safety.

34. All access tracks within the site shall be constructed to a specification to be submitted to and approved in writing by the planning authority before any works start on site. Before the erection of a turbine on site, the approved finishes and specifications shall be implemented in full and thereafter maintained.

Reason: to ensure an appropriate finish to access tracks in the interests of road safety.

35. At least two months prior to the delivery of abnormal loads, a trial run of the haul route shall be carried out in full in order to determine the suitability of the route and any mitigation measures required to accommodate the abnormal loads. The contractor shall give at least one month's notice to the planning authority of the proposed trial run date and following the trial shall submit further written details of any additional measures required to accommodate the loads. Any such additional measures shall be implemented before any abnormal loads are delivered to this site.

Reason: to determine the suitability of the haul route to accommodate abnormal loads in the interests of road safety.

36. Existing rights of way and established footpaths, cycleways, and bridleways will be safeguarded and kept open and free from obstruction. Where development affecting such routes is deemed appropriate, suitable re-routing must be provided before the development commences, or before the existing route is removed from use. BEFORE ANY WORKS START ON SITE, detailed plans at a scale of not less than 1:500 shall be submitted to and approved in writing by the planning authority showing the proposed altered route and the duration of its re-routing. The turbines hereby approved shall be set at a minimum distance, equivalent to the height of the blade tip, from the edge of any public highway (road or other existing public right of way).

Reason: to ensure that all existing rights of way are provided for in the development and not adversely affected as a result of the development.

Archaeology

37. BEFORE ANY WORKS START ON SITE, the developer shall secure the implementation of a programme of archaeological work in accordance with a detailed written scheme of investigation which has the prior written approval of the planning authority.

Reason: in order to safeguard the archaeological heritage of the site and to ensure that the developer provides for an adequate opportunity to investigate, record and rescue archaeological remains on the site, which lies within an area of archaeological importance.

Additional Condition

38. BEFORE ANY WORKS START ON SITE, evidence of a grid connection methodology shall be submitted for the prior written approval of Fife Council as Planning Authority.

Reason: to ensure there is no abortive construction work carried out and that the wind turbines are viable.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

National Policy and Guidance:

Scottish Planning Policy (SPP) 2014

Circular 4/1998 - 'The Use of Planning Conditions in Planning Permissions'

PAN 1/2011: Planning and Noise

Circular 3/2013:Development Management Procedures

Development Plan:

TAYPlan Strategic Development Plan (2017)

Adopted FIFEplan Local Development Plan (2017)

Low Carbon Fife Supplementary Guidance (2019)

Other Guidance:

A Good Practice Guide to the Application of ETSU-R-97 For the Assessment and Rating of Wind Turbine Noise (2013)

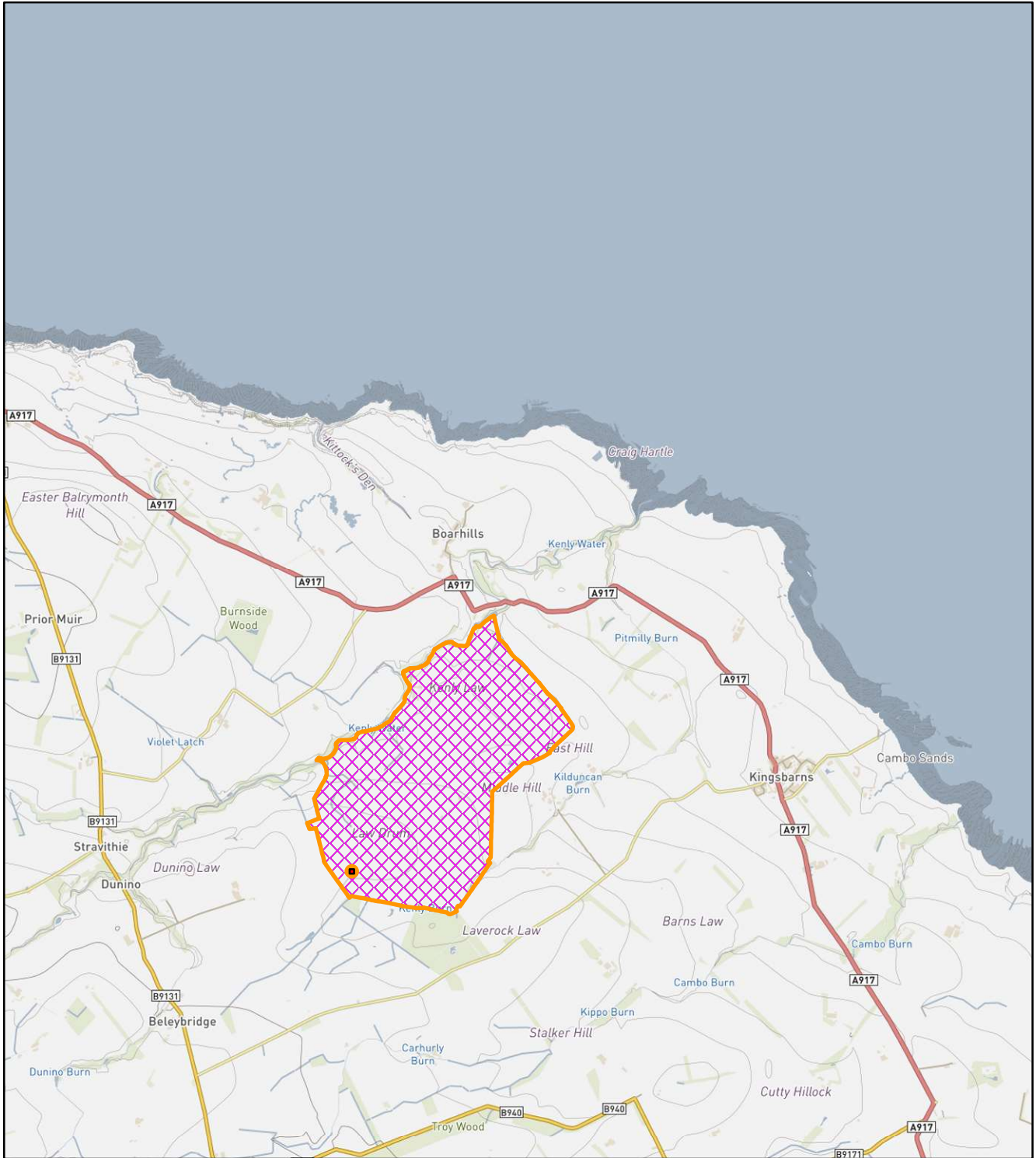
Report prepared by Martin McGroarty

Report agreed and signed off by Alastair Hamilton, Service Manager (Committee Lead) 8/10/21.

Date Printed 10/09/2021

20/00568/EIA

Land At Kenly Farms Kippo Kingsbarns

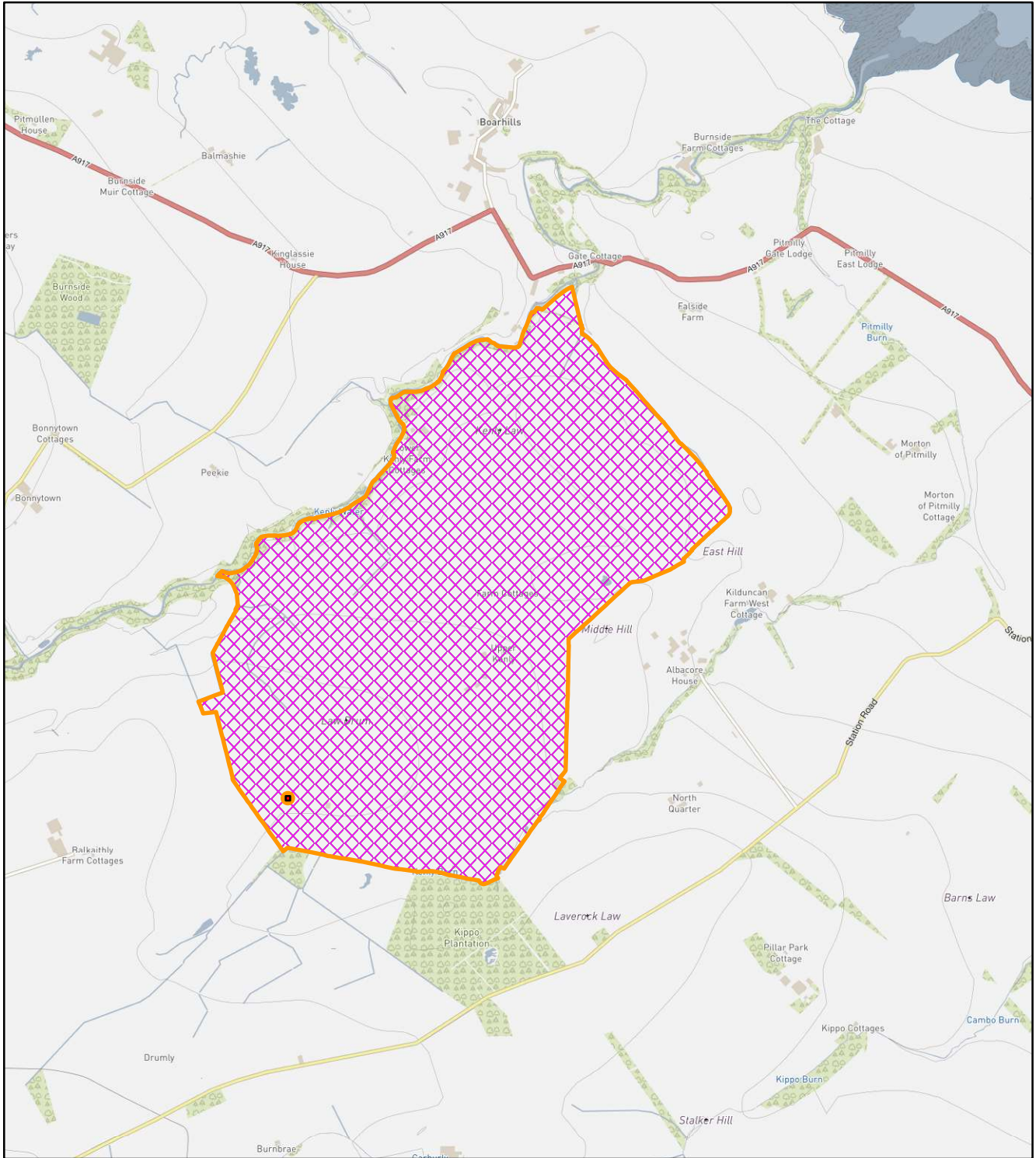


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Legend			
	Application Boundary		

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