

**Item: 3**

**Planning Committee: 14 November 2024.**

**Erect Four Wind Turbines and associated works on land near Hundland Hill, Birsay.**

**Report by Corporate Director for Neighbourhood Services and Infrastructure.**

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**1. Overview**

1.1. This report considers an application for the erection of four wind turbines (maximum height of 180 metres, maximum generation capacity 26.4 MW total), a substation and maintenance building, creation of an access, and associated infrastructure including access tracks, underground cabling, crane hardstandings and borrow pit on land near Hundland Hill, Birsay. A total of 37 representations have been received, 21 in objection and 16 in support. Notwithstanding general policy support for the development type and material considerations in support of the development, and mitigation and compensatory measures, the development is contrary to relevant policies regarding wind shadowing, landscape impact, and the historic environment, noting the application is subject to objection from Historic Environment Scotland including in relation to impact on the Heart of Neolithic Orkney World Heritage Site.

Application Reference:	22/320/TPPMAJ.
Application Type:	Major.
Proposal:	Erect four wind turbines (maximum height of 180 metres, maximum generation capacity 26.4 MW total), a substation and maintenance building, create an access, and associated infrastructure including access tracks, underground cabling, crane hardstandings and borrow pit.
Applicant:	Nisthill Wind Farm Limited.
Agent:	ITPEnergised, Centrum House, 108-114 Dundas Street, Edinburgh, EH3 5DQ.

- 1.2. All application documents (including plans, consultation responses and valid representations) are available for members to view [here](#) (click on “Accept and Search” to confirm the Disclaimer and Copyright document has been read and understood, and then enter the application number given above).
- 1.3. The development is a Major Development as defined in The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.
- 1.4. The application is accompanied by an Environmental Impact Assessment Report (EIA Report) dated August 2022, supplemented by an updated Ornithological Assessment as Supplementary Environmental Information (SEI) dated October 2022, and further SEI dated December 2023 and June 2024. The determination is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the 2017 EIA regulations).

## **2. Recommendations**

- 2.1. It is recommended that members of the Committee:
  - i. Refuse the application in respect of the erection of four wind turbines (maximum height of 180 metres, maximum generation capacity 26.4 MW total), a substation and maintenance building, creation of an access, and associated infrastructure including access tracks, underground cabling, crane hardstandings and borrow pit on land near Hundland Hill, Birsay, Orkney, for the reasons detailed in section 14 of this report.

## **3. Consultation Responses – Statutory Consultation Bodies**

### **Historic Environment Scotland.**

- 3.1. Historic Environment Scotland (HES) objects to the proposed development, concluding that the development would have a significant adverse impact on the integrity of the setting of the following nationally important Scheduled Monuments:
  - Hundland Hill, enclosure 500m NE of Nisthouse (SM13451).
  - Nisthouse, burial mound 270m ENE of Nisthouse (SM1318).
  - Park Holm, artificial island and causeway, Loch of Swannay (SM1362).
  - Stoney Holm, crannog, Loch of Swannay (SM1394).
  - Ring of Brodgar, Stone Circle, Henge and Nearby Remains (SM90042).
  - Stenness, Stone Circle and Henge (SM90285).

- 3.2. HES concludes that the development would significantly adversely impact the authenticity and integrity of the Heart of Neolithic Orkney World Heritage Site, and that the Outstanding Universal Value of the World Heritage Site would not be preserved or protected.
- 3.3. HES notes that these impacts raise issues in the national interest, and do not align with national policy as set out in the Historic Environment Policy for Scotland (HEPS) and National Planning Framework 4 (NPF4).
- 3.4. HES also assesses the development in relation to the Heart of Neolithic Orkney World Heritage Site policy context, Planning Policy Advice 'Historic Environment (Topics and Themes)', Historic Environment Policy for Scotland (HEPS, 2019) and Managing Change Guidance Notes.
- 3.5. A detailed evaluation of the proposal, including consideration of significance of the historic assets and assessment of setting impacts and mitigation, is provided by HES to evidence the objection. The proposal is stated as contrary to NPF 4, Policies 7h and 7i, in relation to impacts on scheduled monuments and proposals affecting a world heritage site or its setting. The compensatory measures proposed do not alter the policy test of Policy 7h of NPF4. Significant adverse impact on the integrity of the setting of several scheduled monuments would be contrary to this policy, with or without compensatory measures. No options for mitigation of impacts arising from the proposed development have been identified by HES.
- 3.6. HES notes that the objection is notifiable to Scottish Ministers, meaning that if the Planning Authority intends to approve the development, with or without conditions, Scottish Ministers must be notified in advance. Scottish Ministers may then decide to call in the application for determination.

### **NatureScot.**

- 3.7. The proposal is close to Orkney Mainland Moors, a Special Protection Area (SPA) protected for its breeding and non-breeding hen harrier, breeding red-throated diver and breeding short-eared owl. NatureScot initially objected to the proposed development due to potential impacts on internationally important natural heritage interests in relation to the Orkney Mainland Moors SPA, owing to insufficient information and analysis of impacts arising. Through revisions and update of the EIA Report through SEI, including a Habitat Management Plan (HMP), NatureScot has considered the proposed mitigation and has concluded, subject to securing and implementing the proposed HMP, that the proposal could be progressed without adversely affecting the integrity of the site in relation to both breeding and non-breeding hen harrier and short-eared owl.

- 3.8. NatureScot has also considered possible impacts arising in relation to North Orkney SPA, Loch of Isbister Special Area of Conservation (SAC), and the West Mainland Moorlands Site of Special Scientific Interest (SSSI). General comment and advice are also provided in relation to landscape and visual impacts, protected species and general ornithology impacts, grid connection and decommissioning.
- 3.9. Subject to appropriate conditions to secure mitigation, NatureScot has withdrawn its objection.

### **Scottish Environment Protection Agency (SEPA).**

- 3.10. The proposed development was initially subject to a holding objection due to a lack of information in relation to potential impacts on Groundwater Dependent Terrestrial Ecosystems (GWDTE) and potential impacts to carbon rich soils. These matters were subsequently addressed by the updated Non-Technical Summary (dated 11 April 2023) where a micrositing limit of 100 metres for turbine T4, its hardstanding and access track is stated. Micrositing of both T3 and T4 would avoid the M27 fen community habitat. This habitat is adjacent to and identified in the National Vegetation Classification (NVC) survey as being in hydrological connectivity with the M19 and M17 blanket bog communities which are designated features of the adjacent SSSI and SPA.
- 3.11. The indicated conditions required by SEPA would require the avoidance of development on M27 habitat and an updated Construction Environment Management Plan (CEMP), prepared in advance of ground preparation or commencement of construction works. The requirement for a condition to secure a detailed Peat Management Plan (PMP) and Habitat Management Plan (HMP) is also stated. It is noted that SEPA has offered no additional comment in the two subsequent consultation responses, dated 9 January 2024 and 17 July 2024 following submission of SEI including clarification and information on the GWDTE, HMP and peat management.

### **Scottish Water.**

- 3.12. Scottish Water has no objection to the planning application.

### **Orkney Islands Council Roads Services (Roads Authority).**

- 3.13. Roads Services has no adverse comment to make, subject to conditions regarding condition surveys of all of the transportation routes identified in Chapter 11 of the EIA Report, including surveys of all of the transportation routes, drainage details for the access points from the public road and the use of temporary signs,

streetlights and bollards to be provided in locations where the permanent signs, streetlights and bollards would require removal to facilitate delivery of turbine components to the development site. An informative relating to excavations and works within the boundary of the public road is also advised.

## **4. Consultation Responses - Other Consultation Bodies**

### **Arqiva.**

- 4.1. Arqiva is a telecommunications company, providing infrastructure and broadcast transmission facilities.
- 4.2. Consideration of whether the development is likely to have an adverse effect on operations, and no objection.

### **Joint Radio Company (JRC).**

- 4.3. JRC analyses proposals for wind farms on behalf of the UK Fuel and Power Industry, to assess potential interference with radio systems operated by utility companies in support of their regulatory operational requirements.
- 4.4. JRC does not anticipate any problems based on known interference scenarios and the data provided.

### **Highlands and Islands Airports Limited.**

- 4.5. Preliminary assessment indicates that, at the position, the proposed development does not impact the safeguarding criteria and operation of Kirkwall Airport. Therefore, Highlands and Islands Airports Limited has no objection.

### **Kirkwall Airport – Senior Pilot.**

- 4.6. The height of the turbine extends to an altitude that the Inter-Island Air Service regularly operates. However, the siting of the proposed turbines is not on a route flown by the locally operated Loganair Islander aircraft, and will consequently have no impact on the service.

### **National Air Traffic Services (NATS).**

- 4.7. NATS is the main air navigation service provider in the UK.
- 4.8. The proposed development has been examined from a technical safeguarding aspect and does not conflict with their safeguarding criteria. Accordingly, NATS has no safeguarding objection to the proposal.

## **Ministry of Defence.**

- 4.9. The development falls within Low Flying Area 14 (LFA 14), an area within which fixed wing aircraft may operate as low as 250 feet or 76.2 metres above ground level to conduct low level flight training. The addition of turbines in this location has the potential to introduce a physical obstruction to low flying aircraft operating in the area. To address this impact, and given the location and scale of the development, the Ministry of Defence (MOD) requires conditions to ensure that the development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately charted to allow deconfliction. As a minimum the MOD would require the development be fitted with MOD accredited aviation safety lighting in accordance with the Air Navigation Order 2016. Subject to these matters being subject to condition, MOD has no objection to the proposed development.

## **Orkney Islands Council (OIC) Airfield Superintendent.**

- 4.10. No consultation response received. The lack of response to four consultations indicates no matters arising, noting responses received from other aeronautical consultation bodies with no objections.

## **OIC Engineering Services.**

- 4.11. Confirmed that there is no flood risk identified on the development site for either the current or 'future' timeframes in SEPA flood risk mapping. Matters in relation to the potential to increase runoff and promote the movement of water both on and below the surface were queried noting that new development surface water drainage must be by sustainable drainage system (SuDS) designed in accordance with The SuDS Manual 2015 (Ciria C753).
- 4.12. Details to the satisfaction of Engineering Services have been provided during consideration of the application, with consultation response on 8 May 2024 stating that information provided by the developer addressed matters arising and no objection confirmed.

## **OIC Islands Archaeologist.**

- 4.13. Consideration was given to both the EIA Report as submitted, and the historic environment sections of SEI, providing a comprehensive appraisal of the proposed development in relation to archaeology.

- 4.14. It is noted that the proposed windfarm is located on Hundland Hill, which is one of the identified sensitive ridgelines that are a fundamental to the Outstanding Universal Value of the World Heritage Site and the understanding, appreciation and experience of the World Heritage Site (Section 3: Heart of Neolithic Orkney World Heritage Site Planning Policy in Planning Policy Advice: Historic Environment (Topics and Themes) (2017)). Concluded that the development is not compliant with Local Development Plan Policy 8Bi.
- 4.15. It is concluded that there are significant effects on the integrity of the setting of specified scheduled monuments and the integrity of the setting of the Heart of Neolithic Orkney World Heritage Site and its Outstanding Universal Value. The proposed development is concluded as not compliant with national or local policy and guidance with respect to the historic environment.

### **OIC Environmental Health.**

- 4.16. The noise assessment was based on the wind turbine blades not exceeding 180 metres to their tip. Noted that should a different final turbine be selected, the developer must ensure that the turbine meets the noise levels detailed in the assessment or be subject to full reassessment. Strictly on these terms, Environmental Health has no adverse comments to the proposed development, subject to appropriate conditions in relation to the construction phase and potential noise impacts.

### **OIC Development and Marine Planning – Environment.**

- 4.17. Consideration of the proposed development is provided within a tabulated response which identifies relevant natural heritage interests, how such would be affected and when, together with consideration of the significance of the potential effect on the natural heritage interests both directly related to the application site and in relation to affects upon the population of the species or habitat at an island (or wider) level. Consideration is given to potential impacts to the West Mainland Moors Site of Special Scientific Interest (SSSI), Loch of Swannay Local Nature Conservation Site (LNCS), Loch of Hundland LNCS, European Protected Species (EPS) including otters and Orkney vole, breeding birds, the water environment, GWDTE and peat and soils.

## **OIC Development and Marine Planning – Access.**

- 4.18. It is stated that there are no core paths within the site of the development proposed, noting that a suitably worded condition should be included in any approval to protect general rights of public access under Part 1 of the Land Reform (Scotland) Act 2003.
- 4.19. It is noted that a public right of way (O59) recorded in the Scotways Catalogue of Rights of Way is adjacent to the southern boundary of the development proposed. Any condition should ensure that public access to this route and the present state of its surface are protected.

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

- 4.20. Following initial objection to the proposed development, comments provided by RSPB Scotland were updated to take account of additional information and clarification provided by the developer, including two years of ornithological survey information and impacts, utilising avoidance rates recommended by NatureScot. Whilst reduced from objection, comment and concern was maintained regarding consideration of impacts to hen harrier and short-eared owl, including habitat loss and displacement of foraging birds, consideration of habitat replacement and management thereof and biodiversity enhancement.
- 4.21. In terms of information available to RSPB Scotland in its response dated 29 January 2024, and consideration of Policy 3 of NPF4, it is stated that “the proposals demonstrate the conservation, restoration, and enhancement of biodiversity, including nature networks, so they are in a demonstrably better state than without intervention as per NPF4”.
- 4.22. RSPB Scotland queries several points of detail and methodology presented in relation to both hen harrier and short-eared owl, significantly in respect of potential to cause habitat loss and displacement of foraging birds and the potential consequences accruing in relation to effects on the Orkney Mainland Moors SPA. RSPB Scotland queries the calculations of targets, timing and siting of habitat replacement and how such can be secured in perpetuity, significantly in relation to hen harrier. It is also queried how the extent of compensatory habitat has been calculated and whether this is appropriate.
- 4.23. RSPB Scotland states that the compensatory measures are fundamental to the acceptability of the proposal, including that securing an appropriate and achievable Habitat Management Plan is required in the long-term interests of hen harriers.



- 4.24. In relation to short-eared owls, RSPB Scotland questions data submitted, and survey methodology employed whilst citing the ‘substantial impact of the proposed development on known nests’. Question is raised as to why no additional mitigation and/or compensation measures are dedicated to short-eared owls and states that measures proposed for hen harriers ‘does not sufficiently provide for the needs of all raptor species that might utilise existing habitat and be displaced’. Additional habitat creation is advocated to replace areas of direct and indirect losses affecting all species concerned.
- 4.25. The matter of biodiversity enhancement was also questioned in relation to satisfying Policy 3 of NPF4 mindful that the application predates the adoption of NPF4. No proposals for enhancement to address this matter were identified within submitted information. No response to the final consultation sought on 9 July 2024 is noted.

## 5. Representations

- 5.1. A total of 37 valid representations have been submitted. It should be noted that, where more than one representation is received from a household, it is defined as one ‘valid representation’. There are incidences of multiple letters from a single person, and separate representations from multiple individuals within a single household. So, whilst less than the total number of individual letters received, 37 is the correct number of ‘valid representations’. Of those, 21 submitted are in objection and 16 are in support.
- 5.2. 21 valid representations (objections) have been received from:
- David Bilcliffe, Lower Bisgarth, Evie, KW17 2PF.
  - James and Nina Leitch, Feolquoy, Evie, KW17 2PJ (x2).
  - Leslie Sinclair, 31A Broad Street, Kirkwall , KW15 1DH (x3).
  - Patricia and Richard Matson, Dale, Costa, KW17 2NL.
  - Alan Kelly, Galtyha, Eday, KW17 2AA.
  - Carl Mulpeter, Surtidale, Swannay, KW17 2NR.
  - Norma Marwick, Mannobreck, By Evie, KW17 2NP.
  - Philippe Avril and Veronique Westrich, Scruit, Lochside, Swannay, Birsay, by Evie, KW17 2NR.
  - Tim French, Director – Constantine Wind Energy, First Floor, River Court, The Old Mill Office Park, Mill Lane, Godalming, Surrey, GU7 1EZ.
  - George Argo, Hoygar, Netherton Road, Stromness, KW16 3JR.
  - Jo Sylvester, Low House, Yorkshire (prepared by Planning Objections Scotland).

- Robert Hill, Swannay Brewery, Swannay by Evie, KW17 2NP.
- Julie Cuthbert, Kiln Farm, Brightlingsea, CO7 0SX.
- Harmony Schofield, Fish House, Sanday, KW17 2BP (x2).
- Dotty Diamond, 147 Burton Road, Eastbourne, BN21 2RU.
- Iain McGill, 7 West Annandale Street, Edinburgh, EH7 4JT.
- Naomi Preston, Flat 0/4, 27 Derby St., Glasgow, G3 7TG.
- Jason Schofield, Swannay House, Swannay, By Evie, KW17 2NP.
- Brooke Mitchell, Lochside, Dounby, KW17 2HP.
- Eleise Schofield, Elizabeth Tower, Chester Road, Manchester.
- Tamara Schofield, 7 Coates Place, Edinburgh, EH3 7AA.

5.3. 16 valid representations (supporting comment) have been received from:

- Kyle Archibald, Newhouse, KW17 2NE.
- Kervin Morgan, Swannay Farm, Swannay, KW17 2NP.
- Susan Sinclair and Connor Archibald, 29 Coplands Drive, Stromness, KW16 3BN.
- Alison McLeod, 12 Woodcroft Walk, Bridge of Don, Aberdeen AB22 8DS.
- Bethin Macdonald, 17 Soulisquoy Place, Kirkwall KW15 1TJ.
- Chelsea Corbett, 99 Watsons Road, Kinglake West, Victoria, Australia 3757.
- Charles Morgan, Orinsay Lodge, Brae, Munlochy, Rosshire, IV8 8PB.
- Caroline Tait, 6 Market Green, Dounby, KW17 2HU.
- Debbie Irvine, Stonemilders, Swannay, Birsay, KW17 2NR.
- Kayleigh Archibald, Ennisby, St Margaret's Hope, KW17 2TN.
- Keri Brandish, 29 Breckan Brae, Holm, KW17 2RR.
- Kevin Dick, Coriven, Dounby, KW17 2HN.
- Moira Anderson, Pickaquoy House, Pickaquoy Road, Kirkwall KW15 1RR.
- Neil MacCallum, Lathabreck, Freswick, Wick KW1 4XX.
- Paige Archibald, 12 Flett Drive, Kirkwall KW15 1FW.
- Scott Russell, 20 Pickaquoy Loan, Kirkwall KW15 1BZ.

5.4. No neutral representations have been noted.

5.5. Representations objecting to the application raised the following matters:

- The development would have a highly detrimental and unacceptable landscape and visual impact, including cumulative impacts with other existing and approved wind energy developments. Materials provided 'underplay' impacts arising.
- Adverse impacts to heritage, including archaeological interests.
- Conflicts with Scottish Government planning guidance.

- The proposed development is contrary to the provisions of The Orkney Local Development Plan, with reference to Policy 7: Energy.
- Failure to accord with Orkney Islands Council Supplementary Guidance: Energy.
- Scale of proposed wind turbines inappropriate and not consistent with policies, guidance and landscape capacity.
- Duration of consent as requested, 40 years, exceeds that prescribed by planning guidance, 25 years, as stated within the Orkney Local Development Plan 2017.
- Amenity impacts – noise, shadow flicker.
- Impacts on tourism.
- No long-term employment benefits.
- Impacts to roads infrastructure due to construction traffic.
- Impacts to wildlife, ecosystems and/or the natural environment and designated sites.
- Inadequate community benefit.
- Conflicts with an existing wind turbine on site, citing lack of consultation with existing operator, lack of consideration of existing wind turbine within the site and failure to apply industry practice regarding separation distances in relation to an existing wind turbine, to the detriment of operation owing to wake effect, fatigue, and stress owing to increased turbulence that would occur were proposed wind turbines to be installed.
- Excessive micro-siting distances sought (up to 125 metres).

5.6. Representations in support of the application raised the following matters:

- Financial benefits – financial boost to local economy through employment opportunities in both construction and maintenance and also wider community benefit.
- Contribution to UK goals of reaching net-zero carbon and reduce reliance on polluting energy sources, reduction of carbon footprint.
- Reduced reliance on imported fuel sources.
- Adds to the Ofgem case to achieve the 220MW subsea transmission link (the interconnector) to the Scottish Mainland.
- Aids self-sufficiency in energy production locally.
- The application is in accordance with both local and national policies.
- Landscape effects of wind turbines are acceptable.
- Aids local electric vehicle ownership.

5.7. Ofgem (The Office of Gas and Electricity Markets), supporting the Gas and Electricity Markets Authority, is the government regulator for the electricity and downstream natural gas markets in Great Britain. The matter of the Ofgem needs case for a 220-megawatt interconnector linking Orkney to the Scottish Mainland is raised in representations in support of the proposed development. In this context, approval of the interconnector was subject to consideration by Ofgem, and the needs case relied on specified electricity generation to be consented within Orkney. During that consideration, for planning applications for development that would create additional electricity generation, contribution to the needs case was a material consideration. The issue of the needs case was settled in July 2023 when the final approval was issued by Ofgem for the interconnector, and additional electricity generation is therefore not a material planning consideration.

## 6. Relevant Planning History

### 6.1. Planning applications

Reference	Proposal	Location	Decision	Date
11/703/PP	Erect a wind turbine (max height 46.6m).	Ludenhill Farm (Land Near), Swannay, Orkney.	Grant subject to conditions.	12.05.2012
23/295/TPP	Erect a wind turbine (maximum height 76 metres, maximum capacity 500kW) extend a crane pad and create of a temporary access (repowering of existing site)	Ludenhill (Land Near), Lochside Road, Birsay.	Grant subject to conditions.	23.03.2024

6.2. As noted above, the existing ‘Ludenhill Turbine’ was approved in 2012 and is operational on site. This turbine is situated within the application site boundary of the current application. The Ludenhill Turbine is operated by a separate party, Constantine Wind Energy Limited, on land in the ownership of one of the two landowners as declared in the Land Ownership Certificate for the current application.

- 6.3. The current application under consideration was submitted in September 2022. A scoping opinion was adopted for a replacement Ludenhill Turbine in April 2023, and planning application 23/295/TPP was submitted in August 2023, for the repowering of the site by the erection of a larger turbine in place of the existing turbine. Planning application 23/295/TPP was approved by the Planning Committee in March 2024.
- 6.4. Approval of the Ludenhill Turbine during the period of consideration of the current proposed development is a relatively unusual circumstance, that an unrelated (other than the land ownership, as stated above) wind turbine is not only operational within the application site area for a wind farm, but also subject to approval for a larger model of wind turbine.
- 6.5. Each application must be assessed on its own merits, and it should be noted that the final SEI submitted was to ensure cumulative impact assessment was correct and up-to-date, including following approval of the larger turbine under application 23/295/TPP. Cumulative assessment within the EIA Report and SEI therefore reflects the situation as consented.

## **7. Relevant Planning Policy and Guidance**

- 7.1. National Planning Framework 4 can be read on the Scottish Government website [here](#).
- 7.2. The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website [here](#).
- 7.3. The key policies, supplementary guidance and planning policy advice listed below are relevant to this application:
- National Planning Framework 4:
    - Policy 1. Tackling the climate and nature crises.
    - Policy 2. Climate mitigation and adaptation.
    - Policy 3. Biodiversity.
    - Policy 4. Natural places.
    - Policy 5. Soils.
    - Policy 7. Historic assets and places.
    - Policy 10. Coastal development.
    - Policy 11. Energy.
    - Policy 12. Zero waste.
    - Policy 13. Sustainable transport.
    - Policy 14. Design, quality and place.

- Policy 19. Heat and cooling.
- Policy 20. Blue and green infrastructure.
- Policy 21. Play, recreation and sport.
- Policy 22. Flood risk and water management.
- Policy 23. Health and safety.
- Policy 24. Digital infrastructure.
- Policy 25. Community wealth building.
- Policy 26. Business and industry.
- Policy 29. Rural development.
- Policy 30. Tourism.
- Policy 31. Culture and creativity.
- Orkney Local Development Plan 2017:
  - Policy 1: Criteria for All Development.
  - Policy 2: Design.
  - Policy 4: Business, Industry and Employment.
  - Policy 7: Energy.
  - Policy 8: Historic Environment and Cultural Heritage.
  - Policy 9: Natural Heritage and Landscape.
  - Policy 10: Green Infrastructure.
  - Policy 11: Outdoor Sports, Recreation and Communities Facilities.
  - Policy 12: Coastal Development.
  - Policy 13: Flood Risk, SuDS and Waste Water Drainage.
  - Policy 14: Transport, Travel and Road Network Infrastructure.
  - Policy 15: Digital Connectivity.
- Supplementary Guidance:
  - Energy (2017).
  - Historic Environment and Cultural Heritage (2017).
  - Natural Environment (2017).
- Planning Policy Advice:
  - Amenity and Minimising Obtrusive Lighting (2021).
  - Heart of Neolithic Orkney World Heritage Site (2010).
  - Landscape Capacity Study for Wind Energy in Orkney (2015).
  - National Roads Development Guide (2015).
- Development Management Guidance:
  - Considering and Including Biodiversity in Development (2023).
  - Energy (2017).
  - Wind Energy: Definitions Associated with Noise Assessments (2023).

- Other Policy and Guidance:
  - Historic Environment Policy for Scotland (HEPS) (2019).

## 8. Legislative position

- 8.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan...”
- 8.2. Annex A of Planning Circular 3/2013: ‘development management procedures’ provides advice on defining a material consideration, and following a House of Lords’ judgement with regards the legislative requirement for decisions on planning applications to be made in accordance with the development plan, confirms the following interpretation: “If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.”
- 8.3. Annex A continues as follows:
- The House of Lords’ judgement also set out the following approach to deciding an application:
    - Identify any provisions of the development plan which are relevant to the decision.
    - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies.
    - Consider whether or not the proposal accords with the development plan.
    - Identify and consider relevant material considerations for and against the proposal.
    - Assess whether these considerations warrant a departure from the development plan.
  - There are two main tests in deciding whether a consideration is material and relevant:
    - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land.
    - It should relate to the particular application.

- The decision maker will have to decide what considerations it considers are material to the determination of the application. However, the question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
- The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
  - Scottish Government policy and UK Government policy on reserved matters.
  - The National Planning Framework.
  - Designing Streets.
  - Scottish Government planning advice and circulars.
  - EU policy.
  - A proposed local development plan or proposed supplementary guidance.
  - Community plans.
  - The environmental impact of the proposal.
  - The design of the proposed development and its relationship to its surroundings.
  - Access, provision of infrastructure and planning history of the site.
  - Views of statutory and other consultees.
  - Legitimate public concern or support expressed on relevant planning matters.
- The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.



8.4. Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

8.5. An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

#### **Status of the Local Development Plan**

8.6. Although the Orkney Local Development Plan 2017 is “out-of-date” and has been since April 2022, it is still a significant material consideration when considering planning applications. The primacy of the plan should be maintained until a new plan is adopted. However, the weight to be attached to the Plan will be diminished where policies within the plan are subsequently superseded.

#### **Status of National Planning Framework 4**

8.7. National Planning Framework 4 (NPF4) was adopted by Scottish Ministers on 13 February 2023, following approval by the Scottish Parliament in January 2023. The statutory development plan for Orkney consists of NPF4 and the Orkney Local Development Plan 2017 and its supplementary guidance. In the event of any incompatibility between a provision of NPF4 and a provision of the Orkney Local Development Plan 2017, NPF4 is to prevail as it was adopted later. It is important to note that NPF4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making.

8.8. In the current case, there is not considered to be any incompatibility between the provisions of NPF4 and the provisions of the Orkney Local Development Plan 2017, to merit any detailed assessment in relation to individual NPF4 policies. However, it must be acknowledged that whilst not incompatible, NPF4 places greater emphasis on the encouragement, promotion and facilitation all forms of renewable energy, noting Policy 11. It must also be acknowledged that the Spatial Strategy Framework approach as laid out within the Supplementary Guidance: Energy (2017) is superseded by the approach to energy generation development as

stated within NPF4, where the principle of development is supported subject to proposed development satisfactorily addressing the requirements of Policy 11.

## **9. Environmental Impact Assessment**

### **Scoping Opinion**

- 9.1. A scoping opinion request was submitted to the Planning Authority in March 2022, to erect 4 x 6.6MW wind turbines (maximum height 180m), reference 22/080/SCO, in accordance with Regulation 9 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the 2017 EIA Regulations). The proposal is a development of a type described in Column 1 and Column 2 of Schedule 2 of the 2017 EIA Regulations and classed as being within a 'Sensitive Area'. As such it met the thresholds for consideration of Environmental Impact Assessment reporting. The potential for the development to result in likely significant effects was determined from the environmental information presented, based on the proposal, its location and potential for effects to sensitive receptors. It was concluded that an EIA was required for the proposed development.
- 9.2. The Scoping Opinion provided advice on potential impacts arising, notably on matters of cultural heritage with responses from both HES and the Islands Archaeologist highlighting the potential for the proposed development to negatively impact archaeology due to changes to setting, individually, and also cumulatively with other large- and small-scale wind energy developments, extant and consented. HES advised that the proposal may give rise to significant adverse impacts on the setting of multiple heritage assets located within the vicinity of the proposed development, and that the development may raise issues in the national interest that may warrant objection.

### **Environmental Impact Assessment Report (EIA Report)**

- 9.3. The planning application was validated in September 2022, accompanied by an EIA Report prepared in accordance with the 2017 EIA Regulations. The Council, as Planning Authority, engaged the services of an independent planning and development consultancy to undertake peer review of the EIA Report content and associated processes. The EIA Report submitted with the application is dated August 2022, with SEI submitted in October 2022, December 2023 and June 2024.
- 9.4. The SEIs submitted address matters raised through review of the submitted EIA Report and in consultation responses. The independent consultancy review process provides a robustness and completeness for the EIA Report and SEIs, and the planning authority assessment of these. Ultimately, the independent review

process concluded that, when viewed as a whole, the EIA Report and SEI complies with technical and other requirements of the 2017 EIA Regulations.

- 9.5. The EIA Report is in five volumes and is accompanied by a Non-Technical Summary. Volume 1 of the EIA Report comprises 17 chapters, with the following matters comprising Chapters 6 to 15:
- Chapter 6 assesses the effects on landscape and visual impact.
  - Chapter 7 assesses the effects on ecology and nature conservation.
  - Chapter 8 assesses the effects on ornithology.
  - Chapter 9 assesses the effects on the historic environment.
  - Chapter 10 assesses the effects of noise.
  - Chapter 11 assesses the effects on traffic and transport.
  - Chapter 12 assesses the effects on hydrology, geology, hydrogeology and peat.
  - Chapter 13 assesses the effects on aviation and radar.
  - Chapter 14 assesses the effects on socio-economic, tourism and recreation.
  - Chapter 15 reports on other issues arising including shadow flicker and telecoms.
- 9.6. SEI was subsequently provided in October 2022, including updated ornithological assessment. Through review of the submitted EIA Report and consultation responses, further information was requested and SEI submitted in December 2023, to address matters including revisiting Chapter 12 (Hydrology, Geology, Hydrogeology and Peat) and supplementary information on aspects of:
- Historic environment.
  - Cultural heritage.
  - Impacts of wind shadowing on the existing wind turbine on site.
  - Ornithology.
  - Consideration of the St Magnus pilgrimage route.
- 9.7. This SEI was accompanied by an updated Non-Technical Summary, noting that the site boundary and proposed site layout were unchanged, excepting an allowance for micro-siting of turbine 4 (T4) and associated infrastructure to avoid specified habitat.
- 9.8. Approval of planning application 23/295/TPP for the repowering of the wind turbine within the bounds of the windfarm site under consideration resulted in a requirement for further SEI to include updated cumulative impacts. This was submitted, dated June 2024 with updated Non-Technical Summary.

## **10. Hierarchy Regulations**

- 10.1. In accordance with the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, the proposed development is defined as a 'Major Development' and has been subject to Pre-Application Consultation. This is detailed in the supporting document submitted with the application 'Pre-Application Consultation Report, August 2022'.

## **11. Notification Requirements**

- 11.1. The development is subject to objection by a government agency, in this case objection by HES in relation to impact on scheduled monuments.
- 11.2. As noted in the HES consultation response, and under the provisions of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009, should a planning authority propose to approve planning permission for a development falling within any of the descriptions of development listed in the Schedule to the above Direction (including where the application has been subject to objection from HES on grounds of impact on scheduled monuments), the planning authority shall notify Scottish Ministers.
- 11.3. A planning authority must not approve planning permission for development before the expiry of a period of 28 days, beginning with the date of receipt by the Scottish Ministers of information which the planning authority is required to provide.

## **12. Assessment**

### **Proposal Description**

- 12.1. Planning permission is sought for the erection of four wind turbines (maximum height of 180 metres, maximum generation capacity 26.4 megawatts total), a substation and maintenance building, creation of an access, and associated infrastructure including access tracks, underground cabling, crane hard standings and borrow pit on land near Hundland Hill, Birsay, as indicated in the Location Plan attached as Appendix 1 to this report. Elevations of the proposed turbines are provided, on the basis that, should planning permission be approved, full details of the substation and ancillary fixtures would require to be secured either by further application or appropriately worded condition.

- 12.2. The site substantially occupies an area extending to 120 hectares on and around Hundland Hill, between the Loch of Swannay and the unclassified road east of the Loch of Hundland. Hundland Hill rises to 106 metres Above Ordnance Datum (AOD) and is a prominent landform within the locality which is characterised by gently sloping topography and agricultural grassland leading onto rough grazing and hill land.
- 12.3. Other site characteristics of note include the absence of residential properties within the defined application site boundary and no significant watercourses within the site. There are two Scheduled Monuments within the application site boundary, the Hundland Hill Enclosure on the summit of Hundland Hill, and Nisthill Burial Mound on the upper southwestern slopes of Hundland Hill. In the westernmost part of the site adjacent to the Loch of Swannay the site contains part of the Loch of Swanny Local Nature Conservation Site.
- 12.4. All components for the proposed wind turbines would be transported from Hatston Pier via the road network and access the site via Hundland Road. On-site construction works would include the formation of access tracks, crane hardstanding, construction compounds and substation building and compound. An existing borrow pit within the site is proposed to be utilised to meet the estimated volume of rock required to construct the tracks, hardstandings and turbine foundations. The proposed substation is proposed to the north-east of the site, at the site entrance, comprising a substation structure with external transformer and generator, all contained within a compound measuring 50 metres by 25 metres with perimeter stock proof fencing. Two construction compounds are also noted: the main construction compound to the west of the substation, measuring 50 metres by 50 metres, and an additional smaller compound to the east of the site, both to be surrounded by stock proof fencing.

## **Principle**

- 12.5. The applicant has presented the case that windfarm development in rural parts of the West Mainland has become established and with larger scale development prevalent, citing the operational Bugar Hill and Hammars Hill windfarms to the south-east of the application site. The Spatial Strategy for wind energy development in Orkney is well established as defined within Supplementary Guidance: Energy, which notes the application site as within an 'Area with Potential for Wind Farm Development'.

- 12.6. NPF4 Policy 11 Energy states a clear and positive position in relation to consideration of all forms of renewable energy development onshore, which includes wind energy developments, as a departure from a strategic spatially planned approach for wind farm developments, thereby superseding the rationale underpinning the Spatial Strategy Map for wind farm developments as at Figure 1 of Supplementary Guidance: Energy. Due to the NPF4 Policy 11 intent to encourage, promote and facilitate all forms of renewable energy development onshore other than in specified areas, reduced material weight is therefore attached to the concept that the proposed development is within an area previously identified as an area with 'potential for wind farm development' by the Supplementary Guidance, mindful that the spatial strategy is a broad indication of certain defined constraints and is not inclusive of all material considerations in a given area. All applications for wind farm developments must also comply with the Development Criteria of the Supplementary Guidance which remain pertinent.
- 12.7. Policy 7D, Onshore Wind Energy Development, of the Local Development Plan and expanded on within Supplementary Guidance: Energy specifies matters which are required to be considered for all types of wind energy development, to ensure that there will be no significant adverse individual or cumulative impacts. These Development Criteria are as follows:
- Development Criterion 1 - Communities and Amenity.
  - Development Criterion 2 - Landscape and Visual Impact.
  - Development Criterion 3 - Natural Heritage.
  - Development Criterion 4 - Historic Environment.
  - Development Criterion 5 -Tourism and Recreation.
  - Development Criterion 6 - Peat and Carbon Rich Soils.
  - Development Criterion 7 - Water Environment.
  - Development Criterion 8 - Aviation, Defence and Communications.
  - Development Criterion 9 - Construction and Decommissioning.
- 12.8. The topics of the Development Criteria generally reflect the submitted chapters of the EIA Report and also matters which are listed under the provisions of Policy 11(e) of NPF4.

### **Landscape and Visual impact.**

- 12.9. The proposed development is not within the bounds of the Hoy and West Mainland National Scenic Area and there are no National Parks within Orkney, as such there is no presumption against the proposed development in relation to landscape designations, in relation to NPF4 Policy 11(b).

- 12.10. NPF4 Policy 11(e)(ii) requires development designs to address “significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable”.
- 12.11. In terms of envisaging the scale of the proposed wind turbines in an Orkney context, there are no operating wind energy developments at or approaching the scale of the proposed turbines at 180 metres tip height in the Orkney landscape, with the largest existing wind turbines on Orkney Mainland being 116 metres to tip height at Burgar Hill. Consented developments, not yet constructed, include two wind turbines below Hammars Hill at 150 metres tip height, Costa Head and Hesta Head at 125 metres, and Lyness, Quanerness and Faray at 149.9 metres tip height.
- 12.12. To allow consideration of this matter, a Landscape and Visual Assessment (LVIA) has been undertaken as an element within the EIA Report. Notable high ground and heights within 5 kilometres, in the parishes of Birsay and Evie, include Costa Hill to the north at 152 metres in height, Vinquin Hill to the east at 100 metres, Burgar Hill to the south east at 159 metres, Skelday and Greeny Hills to the south at 155 metres and 152 metres respectively and Kirbuster Hill at 102 metres to the west. The topography of the area is characteristic of the low-lying and smooth relief that is a key topographical characterisation of the Orkney Mainland.
- 12.13. Chapter 6 of the submitted EIA Report considers landscape and visual impacts, noting the following appendices:
- Appendix 6.1: Landscape and Visual Impact Assessment Methodology.
  - Appendix 6.2: Assessment of Effects on Special Landscape Qualities of Hoy and West Mainland National Scenic Area.
  - Appendix 6.6: Assessment of Night-time Effects.
  - Appendix 6.4: Residential Visual Amenity Assessment (RVAA).
- 12.14. Consideration is also made in SEI dated December 2023 and June 2024 of the St Magnus Way, and sequential cumulative impact assessment presented within Appendix 3.3 of SEI, December 2023.
- 12.15. In the EIA Report, limited consideration was given to the extant Ludenhill Turbine within the Landscape and Visual Assessment (LVIA), particularly in relation to cumulative assessment. At a tip height of 46.6 metres the extant Ludenhill Turbine was below the threshold of 50 metres tip height, which is cited as the cut-off for exclusion of small-scale turbines in the context of an LVIA cumulative assessment. Later SEI therefore included consideration of the cumulative impacts arising as a

consequence of the planning permission approved for the repowering of the Ludenhill Turbine, approved to a height of 76 metres.

- 12.16. Consideration has been made of the Landscape Capacity Assessment for Wind Energy in Orkney (2014) with the scale of wind turbine proposed, at 180 metres to tip height, being in excess of the 'very large' category, as considered within this study (80-125 metres). The study was adopted as Supplementary Guidance in 2015. Development Management Guidance: Energy, adopted July 2019, clarifies the status of the Landscape Capacity Assessment as 'strategic in nature and is not a substitute for a development-specific Landscape and Visual Impact Assessment at the Development Management level'. It is also recognised that adoption of the Development Management Guidance created scope for consideration of wind turbines exceeding 125 metres tip height.
- 12.17. Assessment methodology for LVIA is well established. This requires the identification of receptors that have the potential to be significantly affected by the proposed development and are thereafter assessed in relation to the potential effects that the construction and operation of the proposed development would give rise to. The significance of these effects is then assessed through combining the sensitivity of each receptor with a prediction of the magnitude of change which would occur because of the proposed development.
- 12.18. The LVIA study area for the proposed development covers a radius of 45 kilometres covering most of Orkney, excepting the northeast tip of Sanday, North Ronaldsay, and the southernmost extremity of South Ronaldsay. One landscape element, 17 Landscape Character Types /Landscape Character Units, five Regional Coastal Character Areas and their constituent Local Landscape Character Areas, one designated landscape area and 19 representative viewpoints were considered through the LVIA. Within SEI, a revised cumulative assessment was provided following approval of the Ludenhill Turbine, and sequential cumulative assessment on the cultural element of the St Magnus Way.
- 12.19. Landscape Character Types (LCTs), derived from NatureScot landscape assessment, are considered in detail for the study area. The LCT which occupies the larger extent of the area is LCT 306 – Coastal Hills and Heath northwards from the site to the coast, with LCT 310 – Loch Basins allied to Loch of Hundland and Loch of Swannay to the west and east of the development site respectively, with LCT 314 – Moorland Hills and LCT 313 – Rolling Hill Fringe located to the south. Further to the east of the site, beyond LCT 310 and the Loch of Swannay is LCT 302 – Inclined Coastal Pasture, and thereafter the sea in the form of Eynhallow Sound with LCT 296 – Whaleback Islands, used to describe the LCT typical of Eynhallow



itself. Further from the site is LCT 307 - Cliffs, such as at Marwick Head to the west, LCT 305 – Enclosed Bay as at Birsay and the lower wet ground relative to the Burn of Hillside as LCT 309 – Peatland Basin.

- 12.20. In relation to visual effects, the EIA Report includes visualisations from 19 viewpoints. It is concluded that significant effects would occur at 13 of the 19 viewpoints, with those significantly affected all within a seven kilometre radius of the proposed development. This degree of effect is mostly due to either the proximity of the viewpoint to the development, or greater sensitivity. These conclusions are not disputed by the Planning Authority.
- 12.21. In terms of cumulative effects, most relevant are the operational windfarm at Burgar Hill, and the consented windfarm at Costa Head. The EIA Report assessment of cumulative effects on landscape and coastal character concludes that significant cumulative effects would arise as a result of the development within parts of five of the LCTs/LCUs in the study area, with these significant cumulative effects extending to a radius of approximately four kilometres. The assessment of cumulative effects on visual amenity also identified that significant cumulative effects would arise in respect of two representative viewpoints within a two kilometre radius of the development, at 'A966, Loch of Swannay' and 'Vinquin Hill, Costa'. Again, these conclusions are not disputed by the Planning Authority.
- 12.22. In summary, the EIA Report concludes that landscape and visual receptors beyond a seven kilometre radius would not experience significant effects, and not all landscape and visual receptors within that range would be significantly affected, for example were screened by landform. However, within that localised extent of approximately seven kilometres, it is also concluded that the development would give rise to significant effects on landscape and coastal character during operation, and would also give rise to significant effects on visual amenity in some locations out to approximately seven kilometres, including significant effects at 13 of the 19 representative viewpoints.
- 12.23. Policy 11(e)(ii) of NPF4 acknowledges that landscape and visual impacts are to be expected for wind energy development and requires that project design and mitigation must address significant landscape and visual impact. The same policy provision notes that wind energy developments will generally be considered acceptable where impacts are localised and/or appropriate design mitigations are applied.

- 12.24. The Landscape Capacity Assessment for Wind Energy (2015) notes that in terms of assessment of underlying capacity, there are no areas of Orkney with underlying capacity for the scale of multi-turbine windfarms found in parts of mainland Scotland. In areas of limited underlying capacity, the Landscape Capacity Assessment notes capacity for small scale developments of turbines up to 50 metres, or individual turbines up to 80 metres. As acknowledged above, the Assessment is a strategic level landscape and visual study, and is not a substitute for an independent landscape, visual and cumulative impact assessment, including one forming part of an EIA Report. However, this underlying capacity is relevant, in terms of the extent to which the current development proposal exceeds the Assessment.
- 12.25. Notwithstanding general policy support for wind energy development as set out in Policy 11 of NPF4, given the proposed scale of the windfarm and extent of visibility across parts of the West Mainland, the significant effects on landscape and coastal character, and significant effects on visual amenity in some locations out to approximately seven kilometres, including significant effects at 13 of the 19 representative viewpoints, the significance of landscape and visual amenity impacts are considered unacceptable, and impacts are not considered sufficiently localised to justify the significance of effects. The development is therefore considered contrary to Policy 11(e)(ii) and Policy 9G of the Local Development Plan which requires that “All development proposals must be sited and designed to minimise negative impacts on the landscape...” and that “Consideration should be given to the siting, scale and design of the proposal, as well as the potential for cumulative effects with other developments”.
- 12.26. It should be noted that this conclusion is in relation to landscape and coastal character, and visual amenity only. The effects of these impacts on the historic environment are considered separately below.

### **Ecology, Nature Conservation and Ornithology.**

- 12.27. The matters of ecology and nature conservation and ornithology are considered within the EIA Report in Chapters 4 and 8 respectively. The SEI in October 2022 provided details of additional ornithological survey work undertaken in the 2022 breeding season with the subsequent SEI dated December 2023 providing an updated assessment of effects on relevant ornithological receptors and effects on the Orkney Mainland Moors SPA and North Orkney SPA. This submission also provided analysis on possible loss of feeding habitats and mitigation through habitat management. The SEI provided in June 2024 included updated information

with regards cumulative impacts accruing from the approved repowering of the Ludenhill Turbine.

- 12.28. The eastern element of the site is within the Loch of Swannay Local Nature Conservation Site (LNCS), a non-statutory designation for an area of locally important natural heritage interest. This LNCS, in addition to the loch itself, includes the marshy grassland, improved grassland and areas of rough grassland within the application site which is discussed within the EIA Report and accounts for the area of significant variety within the identified habitats and as illustrated in Figure 7.3, 'NVC Communities' of the EIA Report. Beyond the site area to the west is the Loch of Hundland which is also a LNCS, comprising both the loch and the areas of marsh at its northern and southern ends. The site is also adjacent to the West Mainland Moorland Site of Special Scientific Interest (SSSI), protected for its upland habitats and breeding birds. This SSSI is a component of the Orkney Mainland Moors SPA. Ornithological interests are significant within each of the identified sites. Designated sites extending out to 20 kilometres were considered within the EIA Report.

## **Ecology.**

- 12.29. An Ecological Impact Assessment (EclIA) was undertaken, informed by field surveys including a Phase 1 Habitat Survey and including assessment of the potential presence of protected or otherwise notable species, and a National Vegetation Classification (NVC) Habitat Survey. Of the 15 habitat types identified within the study area, improved grassland predominates within the study area, used for grazing cattle or cropping for silage.
- 12.30. In relation to ecological matters, NatureScot made comment in relation to protected habitats supporting ornithological interests, which are considered separately, with mitigation in relation to otters as stated within the EIA Report as an otter-specific protection plan. The Council's Environment Planner has likewise made significant comment with regards habitats and protected areas in vicinity of the development, primarily in relation to ornithological interests. Suitable habitat for Orkney vole is identified within the site with mitigation as stated within the EIA Report.
- 12.31. Impacts on terrestrial ecology are adequately addressed within the EIA Report and related sections of submitted SEIs and mitigation could be adequately secured by appropriate management methodologies as stated, e.g. updated Construction Environment Management Plan (CEMP), Grazing Management Plan, implementation of 10 metre buffer zones by drainage channels to reduce effects on

Orkney vole, and an otter-specific protection plan, all of which could be secured through the use of planning conditions.

## **Ornithology.**

- 12.32. Ornithology is considered within Chapter 8 of the EIA Report with further accompanying SEIs following additional survey work, response to consultation comments, and to account for the repowering of the Ludenhill Turbine. Established site mitigation practice is advised by the submitted EIA Report, noting general protection provided under the Wildlife and Countryside Act 1981 (as amended) with regards disturbance or injury to wild birds. Intrusive site construction works would be timed to be outwith bird breeding season. The control and management of areas subject to physical development, e.g. tracks, areas of hardstanding and structures would be undertaken to limit the attractiveness of such areas to breeding birds prior to works if they cannot be pursued through the winter months. Any works during March to August would be subject to site checks by an appointed Environmental Clerk of Works with construction phase surveys pursued.
- 12.33. Assessment methodology included a desk study together with field studies based on Vantage Point Surveys, Winter Walkover Survey, Breeding Bird Survey and Breeding Raptor Survey. The EIA Report specifies the bird species considered for assessment. Findings of the various studies included four raptor species and owl species of high conservation value, along with nine species of wildfowl and divers, five species of gull and 12 species of wader. Of these, the eight target species of hen harrier, peregrine falcon, short-eared owl, red-throated diver, whooper swan, Greenland white-fronted goose, Arctic skua and great skua were identified during vantage point surveys undertaken between September 2020 and March 2022.
- 12.34. Collision risk was considered in relation to the great skua and red-throated diver. The results indicated a barely perceptible level of collision risk with a negligible impact on great skua and a low collision risk for red-throated divers. The magnitude of the impact on the Orkney Mainland Moors SPA population of red-throated divers would be low. The matter of which species were considered in relation to Collision Risk Modelling and findings as presented were subject to further review and consideration as presented within SEI. This did not substantially alter the findings as presented within the submitted EIA Report, with the additional surveys and assessment being cited by the developer as illustrating a precautionary approach as a drop-in flight activity for the key species was noted through the additional assessment and survey data.

- 12.35. The qualifying features of Orkney Mainland Moors SPA are hen harrier, red-throated diver and short-eared owl, noting that the hen harrier population within this SPA is one of the largest and densest in Britain with significant numbers of short-eared owls also supported within this designated area. Consideration of impacts on red-throated diver is significant in relation to collision risk as discussed previously. The matter of potential impacts on both hen harrier and short-eared owl are considered as significant and are discussed in detail within the submitted EIA Report and SEIs, in relation to loss and modification of suitable habitat.
- 12.36. NatureScot has advised that this proposal is likely to have a significant effect on both the non-breeding hen harrier and short-eared owl as qualifying interests of Orkney Mainland Moors SPA. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the 'Habitats Regulations') apply. The decision maker would be required to consider the effect of the proposal on the European sites before the application can be consented (commonly known as Habitats Regulations Appraisal). As the recommendation is for refusal this matter is not required to be progressed or considered further.
- 12.37. In relation to ground nesting birds and waders, mitigation proposed is focussed on habitat improvement through grazing management and avoidance of direct mortality and disturbance. An appropriate grazing management plan could be secured by appropriate condition. The matter of loss of habitat and foraging ground, particularly for hen harrier and short-eared owl, was also further considered with mitigation through habitat creation/enhancement and management, as included within Appendix 8.4 of the SEI dated December 2023. The matter of habitat creation/enhancement has been accepted by NatureScot, subject to securing an appropriate Habitat Management Plan, to ensure that restoration and maintenance of suitable habitats for breeding hen harrier within the vicinity of the site is achieved. This matter remains subject to query in relation to the response from RSPB Scotland dated January 2024 which states that the proposed habitat replacement is insufficient to account for that loss to hen harrier and short-eared owl due to the proposed development. Furthermore, RSPB Scotland states that any such habitat creation/enhancement should address Policy 3 of NPF4 requiring development proposals to contribute to the enhancement of biodiversity. RSPB Scotland is of the opinion that: 'from the information currently available, we do not consider the proposals demonstrate the conservation, restoration, and enhancement of biodiversity, including nature networks, so they are in a demonstrably better state than without intervention as per NPF4'.

12.38. On balance and in recognition that NatureScot has withdrawn an earlier holding objection, subject to the securing of an appropriate Habitat Management Plan, with safeguards including agreed monitoring and possible involvement of specialist parties, and noting the assistance proposed by the developer to the benefit of the Orkney Raptor Study Group, together with other mitigation as stated within the EIA Report and subsequent SEIs, it is considered that matters in relation to natural heritage interests, including ornithology, could be appropriately addressed through conditions. It is also considered that securing these matters, particularly the Habitat Management Plan, which extends beyond the application site bounds could be so designed and secured to address the requirements of Policy 3 of NPF4.

### **Archaeology and Cultural Heritage.**

12.39. Archaeology and Cultural Heritage is considered in Chapter 9 of the EIA Report, which assesses the potential for direct effects and effects on setting of heritage interests from the proposed development through construction, operation and decommissioning phases. It identifies two Scheduled Monuments within the site boundary, Hundland Hill, an enclosure 500 metres north-east of Nisthouse, and Nisthouse Burial Mound overlooking the Loch of Hundland to the south-west. A further two Scheduled Monuments are located in the adjacent Loch of Swannay: Park Holm which is an artificial island connected to the site boundary by a partially submerged causeway and may be a prehistoric crannog, and Stoney Holm, another possible prehistoric crannog within the Loch, outwith the site boundary. Five non-designated heritage assets were also identified within the site bounds.

12.40. In verbal communication from one of the landowners during consideration of the application, doubt was cast on the veracity of the status of Hundland Hill Enclosure which has not been subject to detailed archaeological survey or intervention. For consideration of this application, the Planning Authority must assess this as a Scheduled Monument as recognised in law, informed by the EIA Report and consultation responses from both the Islands Archaeologist and HES. The proposed development has been designed to avoid direct impacts on the two scheduled sites within the proposed development area, with a watching brief maintained during groundworks around the two identified assets, and known assets would have exclusion zones marked around them. This has been accepted as appropriate by consultation bodies in relation to protecting the known and identified assets from direct physical impacts.

- 12.41. The EIA Report recognises the potential for previously unknown buried remains in the areas of the site subject to construction activity and has committed to additional mitigation post-determination including establishment of buffer zones, watching briefs where required, an agreed Written Scheme of Investigation methodology and the possible geophysical survey of the Hundland Hill enclosure.
- 12.42. Consideration is made of the setting of heritage assets beyond the site bounds and within 1, 5, 10 and 15 kilometres of the application site respectively, accounting for operational effects upon settings of all designated heritage interests within 10 kilometres. A total of 121 Scheduled Monuments have been identified by the EIA Report within 10 kilometres of the site. Impacts on the features of the Heart of Neolithic Orkney World Heritage Site are also considered, with constituent monuments being the Ring of Brodgar stone circle, henge and nearby remains, Maes Howe chambered cairn, Stenness, stone circle and henge and Skara Brae, settlement mounds and other remains, situated between 10.91 kilometres and 14.32 kilometres of the application site.
- 12.43. Following initial review of the EIA Report, clarification and justification of the scope and methodology undertaken for assessment of cultural heritage effects was sought, together with clarification of the assessment of impacts on the integrity of the settings of Scheduled Monuments, noting comments received from both HES and the Islands Archaeologist. Furthermore, additional montages to support the assessment of effects on constituent components of the Heart of Neolithic Orkney World Heritage Site were sought. The additional photomontages were provided in Appendix 3.2 of the SEI dated December 2023.
- 12.44. It is accepted that all reasonable steps, subject to appropriate mitigation, to remove direct impacts on the two Scheduled Monuments on site can be satisfactorily achieved and that no direct impacts on Scheduled Monuments outwith the site would occur as a consequence of the proposed development.
- 12.45. Fundamentally the matter of significance of impact is on the integrity of the setting of five identified Scheduled Monuments within the site, and in proximity to it, and due to the proposed development being situated at, or on, a 'sensitive ridgeline' which, given the scale of the proposed wind turbines at 180 metres, would break the skyline and would have an impact on the setting and integrity of the Heart of Neolithic Orkney World Heritage Site. The degree of significance of these impacts is subject to unresolved dispute between the findings of the submitted EIA Report, and those of HES, noting the role of the body to safeguard the historic environment in the national interest, and the Islands Archaeologist who performs a similar role at local level. The identified, impacted, Scheduled Monuments are as follows:

- Hundland Hill, enclosure 500m NE of Nisthouse (SM13451\*).
- Nisthouse, burial mound 270m ENE of Nisthouse (SM1318\*).
- Park Holm, artificial island and causeway, Loch of Swannay (SM1362\*).
- Stoney Holm, crannog, Loch of Swannay (SM1394\*);
- Ring of Brodgar, Stone Circle, Henge and Nearby Remains (SM90042\*).
- Stenness, Stone Circle and Henge (SM90285\*).

\* The reference provided to each is the recording number as used by HES.

12.46. The conclusion presented by the developer is that ‘moderate’ effects are predicted on the five Scheduled Monuments and that such an effect is considered as ‘significant’. The developer’s assessment is such that the predicted effects would not affect the integrity of their settings and would therefore comply with paragraph 145 of Scottish Planning Policy (SPP, 2014), as relevant at the time of submission of the EIA Report. SPP 2014 has now been superseded by NPF4. The developer identified no additional cumulative effects to the cultural heritage resulting from the consented repowering of the Ludenhill Turbine.

12.47. HES and the Islands Archaeologist raise matters of deficiencies within the submitted EIA Report and subsequent SEIs, as stated within the respective consultation responses. Whilst some matters have been adequately addressed by the developer to the satisfaction of the consultation bodies within subsequent SEI, the degree and significance of effects arising and affecting the integrity of the setting of Scheduled Monuments and the integrity of the setting of the World Heritage Site and its Outstanding Universal Value remain unresolved with no mitigation identified.

12.48. The UNESCO citation describing the significance of the Outstanding Universal Value of the Heart of Neolithic Orkney World Heritage Site states: “The four monuments that make up the Heart of Neolithic Orkney are unquestionably among the most important Neolithic sites in Western Europe. These are the Ring of Brodgar, Stones of Stenness, Maeshowe and Skara Brae. They provide exceptional evidence of the material and spiritual standards as well as the beliefs and social structures of this dynamic period of prehistory.”.

12.49. The citation continues:

“The four main monuments, consisting of the four substantial surviving standing stones of the elliptical Stones of Stenness and the surrounding ditch and bank of the henge, the thirty-six surviving stones of the circular Ring of Brodgar with the thirteen Neolithic and Bronze Age mounds that are found around it and the stone setting known as the Comet Stone, the large stone chambered tomb of Maeshowe,



whose passage points close to midwinter sunset, and the sophisticated settlement of Skara Brae with its stone built houses connected by narrow roofed passages, together with the Barnhouse Stone and the Watch Stone, serve as a paradigm of the megalithic culture of north-western Europe that is unparalleled.”.

12.50. The World Heritage Site Statement of Outstanding Universal Value specifically states that the surrounding topographic bowl, defined by the ridgelines, referred to as Sensitive Ridgelines, is a fragile landscape which is vulnerable to incremental change. It also states that the relationships and linkages between the monuments of the World Heritage Site and the wider open, almost treeless landscape are potentially at risk from change and development in the countryside. Consequently, the importance of these Sensitive Ridgelines is widely accepted, and forms part of Local Development Plan policies as set out in the supporting guidance: Planning Policy Advice (Topics and Themes): Historic Environment.

12.51. In recognition of the international significance of the Heart of Neolithic Orkney World Heritage Site, Policy 8, Historic Environment and Cultural Heritage of the Local Development Plan, part B, Specific Policy Considerations, i, states:

“Development within the Inner Sensitive Zones will only be permitted where it is demonstrated that the development would not have a significant negative impact on the Outstanding Universal Value of the World Heritage Site or its setting.

Development will not be permitted where it breaks the skyline at the sensitive ridgelines of the World Heritage Site when viewed from any of its component parts, or where it will be sited in any location where there is the potential to impact upon the World Heritage Site, unless it is demonstrated that the development will not have a significant negative impact on either the Outstanding Universal Value or the setting of the World Heritage Site.”.

12.52. In this context, the development would break the Sensitive Ridgelines that delimit its setting. HES does not accept the EIA Report’s assessment of setting as underpinned by ‘core’ and ‘wider’ aspects, stating that the weaknesses of that approach are especially clear in its application to the Heart of Neolithic Orkney World Heritage Site, where the EIA Report has characterised the landscape beyond the Lochs of Harray and Stenness, out to the Sensitive Ridgelines, as being of lesser sensitivity to change than the ‘core’ setting. This separation of elements of the World Heritage Site’s setting, with associated variations in relative sensitivity to change, is not reflected in any established policy or guidance documents, and HES does not accept it as a valid approach to assessing setting.

- 12.53. This Local Development Plan policy is consistent with Policy 7 Historic Assets and Places, paragraph (l) of NPF4 which is clear and unambiguous: “Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved”.
- 12.54. Component parts of the Heart of Neolithic Orkney World Heritage Site are geographically separated, which is in substantial part recognised through the safeguarding of sensitive ridgelines, with the breaching of the skyline at such locations specifically safeguarded from development when viewed from any of the component parts of the World Heritage Site. In this case and as evidenced in submitted visualisations and zones of theoretical visibility mapping, turbines would be visible from both the Stones of Stenness and the Ring of Brodgar. The visualisation at viewpoint 11: Ring of Brodgar demonstrates that all four wind turbines would be visible at blade tip height, with three of the four also being visible from hub height.
- 12.55. Overall, HES is content with the scope of the study area, but as noted above has residual concerns and does not agree with the assessment methodology, specifically the identification of ‘core’ and ‘wider’ elements of an asset’s setting. That creates implicit precedence in importance for aspects of an asset’s setting that are physically closer than those that are more distant, something that is borne out in the EIA Report’s assessment of impact.
- 12.56. HES notes that a key policy test for scheduled monuments is set out in Policy 7(h) of NPF4, which requires establishment of whether a development proposal has the potential to ‘significantly adversely impact the integrity of the setting of a scheduled monument’ in order to determine its acceptability.
- 12.57. Two key points exist which are pertinent to assessing integrity of setting. The first of these is that ‘setting’ is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced. The second is that setting can often be integral to a historic asset’s cultural significance. It is the impact on cultural significance and on understanding, appreciation and experience which are key to assessing impacts on integrity of setting.
- 12.58. HES provides detailed appraisal of the setting and impact of each of the affected monuments. It is also confirmed that since September 2021, HES has indicated that it would likely object to the scheme, and since that time no meaningful proposals for mitigation by design have been submitted.

12.59. HES concludes that the proposed development would result in the following impacts:

- All four turbines would significantly and adversely impact on the integrity of the setting of the Hundland Hill enclosure.
- T2 would significantly and adversely impact on the integrity of the setting of the Nisthouse burial mound, whilst T1 would also have a significant impact.
- T3 would significantly and adversely impact on the integrity of the setting of Stoney Holm crannog, whilst T4 would also have a significant impact.
- T4 would significantly and adversely impact on the integrity of the setting of Park Holm crannog, whilst T3 would also have a significant impact.
- All four turbines would significantly and adversely impact on the integrity of the setting of the Ring of Brodgar and Stones of Stenness and the authenticity and integrity of the Heart of Neolithic Orkney World Heritage Site.

12.60. It is concluded that the proposals would therefore have a significant adverse impact on the integrity of the setting of the following nationally important Scheduled Monuments:

- Hundland Hill, enclosure 500m NE of Nisthouse (SM13451).
- Nisthouse, burial mound 270m ENE of (SM1318).
- Park Holm, artificial island and causeway, Loch of Swannay (SM1362).
- Stoney Holm, crannog, Loch of Swannay (SM1394).
- Ring of Brodgar, Stone Circle, Henge and Nearby Remains (SM90042).
- Stenness, Stone Circle and Henge (SM90285).

12.61. In terms of the Ring of Brodgar, HES concludes that the proposals would significantly and adversely impact the integrity of the Ring of Brodgar's setting and undermine this element of the World Heritage Site's authenticity and integrity and therefore its Outstanding Universal Value.

12.62. In terms of the Stenness, Stone Circle and Henge, as a result of the impact on the 360° views around the Sensitive Ridgelines from the centre of Stenness, the character of the monument's surroundings, key northward views out from the monument and on the modern visitor approach, HES concludes that the development would significantly and adversely impact on the integrity of Stenness' setting, and that the development would also undermine this element of the World Heritage Site's authenticity and integrity and therefore its Outstanding Universal Value.

- 12.63. In general terms, the proposals would have a cumulative impact on both monuments' settings, the Sensitive Ridgelines and the World Heritage Site's Outstanding Universal Value. In addition to the existing windfarms and masts, the Sensitive Ridgelines in this direction would be affected by several consented windfarms or those under consideration, including Costa Head, Quanterness and Hoy. However, the current proposals would be significantly more prominent in their appearance on the Sensitive Ridgelines than any of these schemes and appear in key views from Stenness.
- 12.64. The proposed development would have a significant adverse impact on the integrity of the setting of five nationally important Scheduled Monuments. In terms of the Heart of Neolithic Orkney World Heritage Site, the development would have a cumulative impact on the setting of the Ring of Brodgar and Stenness and the Sensitive Ridgelines and would undermine the World Heritage Site's authenticity and integrity and Outstanding Universal Value.
- 12.65. As the World Heritage Site's Outstanding Universal Value would not be preserved or protected, the proposed development is contrary to Policies 7(h) and 7(l) of NPF4, and Policy 8 of the Local Development Plan.

### **Traffic and Transport.**

- 12.66. Chapter 11 of the EIA Report assesses traffic implications of the development. A transport assessment has been undertaken to inform the EIA Report, structured to account for relevant transport and planning policies, methodology of assessment, baseline transport conditions, trip generation and distribution of traffic and mitigation for development related traffic in the area.
- 12.67. The study area of the transport assessment accounts for the route necessary for transportation of materials from landing of components at Hatston Pier, Kirkwall, following the A965 through Finstown to the junction with the A986 (the Harray Road End) and thereafter through Dounby and on towards Twatt taking the turn off for the C class Hundland Road and onto the accesses thereafter on Nisthouse and Lochside Roads respectively. Access to the site would be taken from an access junction on Nisthouse Road, which would require upgrade to accommodate traffic movements. Enabling works would be delivered along Lochside Road for access to the proposed borrow pit and delivery of plant and equipment.
- 12.68. The construction phase would result in increased traffic volumes with the anticipated maximum effect resulting in month seven of the construction programme with an average of 149 heavy goods vehicle movements predicted per day, transporting aggregates and other materials, with a further 16 car and light

goods vehicle movements per day accounting for construction worker trips. Post-construction, traffic flows would be expected to reduce to two vehicle movements every 14 days for maintenance purposes.

- 12.69. A range of both general and specific mitigation measures are identified by the developer, with preparation of a Construction Traffic Management Plan (CTMP) prior to any development being undertaken. The developer has also stated an intention to cover the cost of abnormal wear and tear and does not predict conflict between typical construction traffic movements and other road users.
- 12.70. Delivery of turbine components for the scale of turbines proposed requires consideration of specific abnormal loads and mitigation thereof. The movement of abnormal loads would be subject to agreement with both the Roads Authority and Police Scotland and given the nature of such movements is understood to have greater potential for conflict with other road users, i.e. where loads may straddle the centre line of the road, at the junction of the A965 and Grainshore Road, turnings at road junctions, and where higher average road speeds are predicted. An Abnormal Load Transport Management Plan would be required to address all such movements to and from the proposed development site.
- 12.71. The potential effects of construction traffic for the assessment areas have been considered by the EIA Report to be classified as being minor and non-significant. Given the low numbers of vehicle movements, no operational effects are anticipated. Decommissioning is expected to be similar but at lower levels than the construction phase effects.
- 12.72. A port management plan is acknowledged by the applicant as necessary in relation to the unloading and marshalling of delivery and uplifts from Hatston. That could be secured by an appropriate planning condition to ensure no detrimental issues at the pier and in relation to other activities.
- 12.73. Cumulative assessment with other developments known at the time of application have also been considered, including other substantial projects using the road network, and including other wind energy developments and the substation close to Finstown. The consideration undertaken acknowledges that there would be increases in construction traffic flows of around 2% if another of the significantly scaled development construction phase is undertaken concurrently. An overarching Traffic Management and Monitoring Plan is envisaged by the applicant in such a circumstance.

12.74. It is acknowledged that representations received raise roads matters in objection to the application; however, no evidence of unacceptable impacts for traffic and transport are evidenced within the submitted EIA Report. It is also recognised that through consultation including with Roads Services, no concerns are raised on this issue.

### **Noise and Vibration.**

12.75. Consideration of vibration was scoped out of the submitted EIA Report as no significant effects anticipated. Noise emissions from the proposed wind farm have been considered in Chapter 10, with shadow flicker considered in Chapter 15 of the EIA Report. These matters were subject to further review in the SEI dated June 2024 in respect of cumulative impacts arising from the Ludenhill Turbine.

12.76. A noise survey was undertaken at three locations: Myres, Hundland and Lochview to determine existing background noise levels.

12.77. In consideration of noise impacts, Environmental Health is content that any adverse noise impacts in the construction phase, inclusive of onsite activities, can be controlled by restrictions on hours. A satisfactory Construction Environmental Management Plan (CEMP) to address noise, dust, waste and pollution controls would be required. The operation of the wind farm can be adequately addressed by standard conditions.

12.78. Consideration of cumulative impacts arising from the approval of the repowered Ludenhill Turbine indicates that additional mitigation in the form of curtailment (switch off) of the small wind turbines at the financially involved noise sensitive receptors at Hundland, Nisthouse and Newhouse would be required at 7 m/s and 8 m/s to preserve headroom for the proposed development to operate.

12.79. Based on the proposed project design and mitigation, it is considered that the proposed development could operate to meet appropriate noise limits subject to finalised positions of individual wind turbines, mindful of the request for significant micro-siting allowances to avoid specific habitats and subject to turbine specification being in accordance with the information forming the EIA Report, and with operational noise management secured by appropriate planning conditions.

## **Shadow Flicker.**

- 12.80. A shadow flicker assessment was undertaken at 34 identified receptors within a study area which includes an area within a distance of 10 times the rotor diameter, resulting in a study area of 1.55 kilometres from each wind turbine position. Shadow flicker was considered to be significant at 17 receptors (greater than 30 hours per year) based on theoretical modelling in the worst-case scenario. Realistic modelling was then applied accounting for wind data and average sunshine hours resulting in a reduction to six receptors being significantly affected with no receptor calculated to experience flicker for more than 30 hours per year. This model did not take into account any screening or true window orientation relative to the turbines.
- 12.81. Of these six receptors, the EIA Report states that five have a financial involvement in the proposed development: Veltan, Dale, Belmont, Newhouse and Lochside Cottage, with the remaining receptor currently an unoccupied derelict property at Myres. The nature of the financial involvement in the proposed development has been clarified through subsequent correspondence as “A property which is owned and occupied by the landowners of the wind farm and so benefits financially. Alternatively, a financially involved property is where the owner and/or occupier has signed a Good Neighbour Agreement and will be financially recompensed due to, for example, the property being required for the implementation of the wind farm’s proposed HMP”.

## **Flood Risk, Hydrology, Hydrogeology, Geology and Peat.**

- 12.82. Wind energy developments are required to avoid causing significant impacts on the water environment. The water environment has been considered as a component of Chapter 12 of the EIA Report, including surface water, flood risk and hydrogeology. Subject to appropriate mitigation, no unacceptable adverse impacts are anticipated.

### **Flood Risk.**

- 12.83. No significant areas of flood risk have been identified on, or in the immediate environs of, the proposed development site, neither has the proposed development been considered to exacerbate areas of potential flood risk. The EIA Report has assessed the overall receptor sensitivity of the site and the local area with respect to flooding to be low. The Flood Authority, Engineering Services, was consulted and no flood risk was identified on the development site for either the current or ‘future’ timeframes in consideration of SEPA flood risk mapping.

## **Surface Water and Groundwater Management.**

- 12.84. The development potentially impacts two water bodies, the Loch of Hundland and the Loch of Swannay. This is a consequence of drainage from the northern and western parts of the site (T1, T2, associated tracks, hardstandings and the substation) draining towards the Loch of Hundland with the southern and eastern parts (T3, T4, associated tracks and hardstandings and the borrow pit) draining towards the Loch of Swannay. The sensitivity of both receptors is considered to be high by the EIA Report.
- 12.85. SEI dated December 2023 provides additional information to address surface water drainage management requirements with additional information to inform construction details, maintenance schedules and how potential migration of ground water along tracks and buried cable routes would be prevented. Standard mitigation measures, addressed through a Construction and Environmental Management Plan (CEMP) would be necessary in relation to the design, implementation and ongoing management of trackside drainage, swales and retention ponds where necessary. In relation to groundwater, consideration is given to the shallow nature of the existing groundwater allied with topography, indicating that it would typically correspond with surface water flow and catchments. The prevention of disruption to flow paths through maintenance of hydraulic connectivity upslope and downslope of access tracks and buried infrastructure are key considerations. Watercourse crossings are limited to three crossings of minor drains/ditches. Pre-construction intrusive site investigation, together with monitoring and assessment of groundwater levels and flows to include consideration of linear infrastructure of tracks and buried services would be pursued. These are again matters typically addressed through the CEMP, which can be secured by appropriate condition(s).
- 12.86. Holding objections from both SEPA and Engineering Services were addressed through submission of SEI, which provided further detailed assessment of potential effects on groundwater dependent terrestrial ecosystems (GWDTE), confirmation of micro-siting T4 and associated infrastructure to avoid particular habitat, and additional information on proposed surface water drainage and measures to control groundwater migration.
- 12.87. The EIA Report provides information on identified areas of potential GWDTE, with several communities identified within the application site that are listed as having GWDTE potential. The EIA Report concluded that none of these communities were truly groundwater dependent. SEPA did not agree with this assessment, due to the hydrogeological setting, as the wetlands do not have to be fed by a major aquifer



to qualify as GWDTE and that GWDTE require a minimum amount of groundwater influence. SEPA considers the underlying geology is 'the same as an adjacent designated site where there is floristic interest due to the groundwater influence as contained in the SSSI Citation for West Mainland Moorland SSSI'. Additionally, the site description for the Orkney Mainland Moors SPA which overlaps with the SSSI also has due regard to GWDTE habitats. Turbines T3 and T4 are located within potential GWDTE.

- 12.88. The developer instigated a detailed risk assessment for identified GWDTE areas which concludes that the area identified as H1, in the north-west of the proposed development site had potential to be truly groundwater dependent. Turbine T1 and associated infrastructure is within this area with mitigation to minimise potential adverse effects on groundwater quality and quantity being proposed as it was not feasible to relocate T1 owing to turbine spacing, and buffering from sensitive receptors. Given the limited spatial extent of the area, lack of connectivity with other GWDTE and low overall sensitivity of the groundwater at the site, mitigation is proposed.
- 12.89. The mitigation would require pre-construction site investigation to inform micro-siting to ensure that the turbine base is sited away from localised seepages and where groundwater is at, or near surface. Excavation and construction would be pursued to minimise any required dewatering and be as limited as possible in duration. The use of an impermeable lining to the base of excavation is also considered to minimise potential of concrete leaching to groundwater with ongoing groundwater monitoring through construction and post construction as necessary. The use of a water monitoring plan, including groundwater, could be secured by appropriate planning condition(s) as necessary.
- 12.90. Turbines T3 and T4 were specifically noted by SEPA with modification of the site layout advocated to avoid potential unacceptable impacts to GWDTE. Turbine T3 is located just inside the western edge of the mapped M27 community. The avoidance of M27 community can be achieved by micro-siting T3. To allow for appropriate spacing between turbines and to achieve safe and efficient turbine operation will require T3 micro-sited southward and will require T4 and its associated infrastructure micro-sited 80 to 100 metres to the north, thereby avoiding the M27 community. This may be further informed during construction and with oversight of the Environmental Clerk of Works on site.
- 12.91. Updated consultation responses from both SEPA and Engineering Services during 2024 have confirmed that the respective holding objections were withdrawn as a consequence of the detail provided in SEI, subject to micro-siting of turbines T3

and T4, methodology, and appropriate planning condition(s) and as specified by SEPA within an earlier response in May 2023. Subject to securing these matters through appropriate condition(s), the proposed development is considered to be in accordance with relevant policy and guidance with regards surface water and groundwater.

## **Peat.**

- 12.92. An outline Peat Management Plan (Stage 1 PMP) was provided within the EIA Report. Additional information was sought by the Planning Authority following review, and SEI, December 2023, provided clarification of local storage of peat, as the PMP identified the likely requirement of some excavation of peat to achieve the proposed development. Peat storage on site is only necessary where reinstatement is not immediately achievable, and where stored peat would be achieved by the end of the construction phase. Guiding principles are as stated within the Stage 1 PMP in accordance with established good practice during construction and reinstatement phases.
- 12.93. The developer states that further detail of local peat storage should be confirmed at Stage 2 PMP (post-consent/pre-construction) and/or Stage 3 PMP (Construction), mindful of on-site inputs from the Environmental Clerk of Works, a Geotechnical Engineer and the contractor through these phases. Subject to securing an appropriate and detailed (Stage 2) PMP following the guiding principles of the Stage 1 (outline) PMP, impacts to peat may be adequately addressed.

## **Aviation, Defence and Communications.**

- 12.94. The site is situated approximately 25 kilometres north-west of Kirkwall Airport, with other airfields and airstrips in the Isles, these being sufficiently distant from the proposed development to not be directly affected, with the nearest airfield as cited by the applicant being Eday, approximately 26 kilometres north-east of the site. There are no aviation radars identified within the immediate proximity of the proposed development. The developer has noted that the site is within the range where impacts to Instrument Flight Procedures (IFP) are possible and has stated that, subject to an IFP impact assessment demonstrating no impacts to the IFP at Kirkwall Airport, this matter could be subject to appropriate condition(s) as necessary, mindful of the comfort provided in there being no objections from aeronautical interests.

- 12.95. The area is stated by the applicant as a low priority for military low flying training, and the Ministry of Defence consultation response notes that ‘the development falls within Low Flying Area 14 (LFA 14), an area within which fixed wing aircraft may operate as low as 250 feet or 76.2 metres above ground level to conduct low level flight training’.
- 12.96. No significant or adverse impacts are considered to arise in relation to aviation, including defence aviation interests as stated in Chapter 13 of the EIA Report. This was subject to review following approval of the repowering of the Ludenhill Turbine, within the proposed development site boundary, and as considered in SEI dated June 2024 with no effects assessed. No objections are noted from aviation interests including Highlands and Islands Airports Limited, Kirkwall Airport – Senior Pilot, National Air Traffic Services (NATS) and the Ministry of Defence.
- 12.97. There is a legislative requirement from the Civil Aviation Authority (CAA) CAP 393 (February 2021), The Air Navigation Order (ANO) and Regulations, which specify the statutory requirements for the lighting of onshore wind turbines over 150 metres. This matter can be addressed by appropriate planning condition(s). In addition, to satisfying aviation charting and safety management, appropriate condition(s) would be required for notification of works in advance of date of commencement of development.
- 12.98. The statutory requirement for a medium intensity (2000 candela) steady red aviation warning light, mounted as close as possible to the top of all structures at or above 150 metres above ground level, imposes the requirement to mount such lighting atop the nacelle of the wind turbines. The proposed development would typically require all the proposed wind turbines to be lit. Consideration and future options to reduce light pollution are considered within the EIA Report, with visualisations for night provided.
- 12.99. In consideration of potential disruption to television signal caused by wind turbines, which is understood historically to have been an issue elsewhere in Orkney, it is recognised that the nature of signal transmission has moved from analogue to digital which is less susceptible to interference. In consideration of any impacts to communications, Arqiva, which has responsibility for providing the BBC, ITV and the majority of the UK's radio transmission network and is responsible for ensuring the integrity of Re-Broadcast Links, has not considered the development to have any adverse effect and as such has no objection to the development. No objection has been received from the Joint Radio Company. One telecommunications link, operated by EE, was identified prior to submission with a

125 metre micro-siting buffer advised to mitigate adverse effects on this telecommunication link.

- 12.100. No residual effects are anticipated on television, telecommunications or aviation infrastructure subject to appropriate planning condition(s) were the application to be subject to approval.

### **Socio-economic Impacts.**

- 12.101. Consideration is given to the net-economic impacts of the proposal, including local and community socio-economic benefits in relation to Policy 7 of the Local Development Plan, and NPF4 Policy 11(c) and Policy 25(a).
- 12.102. The proposed development has an indicative capacity of 26.4 MW. This figure is used to estimate average spend per MW for the proposal with the use of Gross Value Added (GVA) to measure the contribution to the economy. The GVA is considered in both the local (Orkney) and national (Scotland) context. This matter is considered in detail in Chapter 14 of the submitted EIA Report.
- 12.103. It is estimated that the construction and development phase of the development would generate up to £2.2 million GVA and support 23 job years in Orkney; and £7.2 million GVA and 106 job-years in Scotland. The annual operations and maintenance spending is estimated to generate up to £0.2 million GVA and two jobs in Orkney, and £0.6 million GVA and seven jobs in Scotland.
- 12.104. The EIA Report states that the applicant has committed to follow Scottish Government recommendations with regards payments per MW per year in community benefits for the local area, equating to £132,000 annually. It is also estimated that the proposed development could contribute £0.2 million each year in non-domestic rates.
- 12.105. The figures presented date from the preparation of the EIA Report in 2022 and may be considered somewhat dated mindful of financial turbulence in the period of determination. It is also noted the developer cites a notional 40-year operational lifetime of the proposal in relation to certain figures provided over the lifetime of the proposed development. Supplementary Guidance: Energy states provision for 25 years for this scale of wind energy development.
- 12.106. It is accepted that there are potential net economic benefits that may arise, including local and community socio-economic benefits including employment, associated businesses and supply chain opportunities both at a local and national scale. These socio-economic effects from the construction and

development of the proposed development were assessed by the EIA Report as negligible in Orkney (negligible effect), and negligible in Scotland as a whole (negligible effect). It is concluded that there is minor/negligible beneficial impact in Orkney from both construction and operational phases.

## **Tourism and Recreation.**

- 12.107. Chapter 14 of the EIA Report assesses the possible recreation and tourism impacts associated with the proposed development. No significant adverse effects are identified, and impacts are generally considered as negligible.
- 12.108. The EIA Report presents the findings of a study on the effect of onshore wind farms on tourism by BiGGAR Economics in 2021 (Wind Farms and Tourism Trends in Scotland). This study includes that published national statistics demonstrate that no relationship exists between tourism employment and onshore wind farm development, at the level of the Scottish economy, across local authority areas or at local area level.
- 12.109. A dedicated local assessment is provided within the EIA Report, also undertaken by BiGGAR Economics, and considers a study area extending to a radius of 15 kilometres to assess local tourism and recreation assets, with assessment of receptors and effects on tourism and recreation. In addition, further information was requested by the Planning Authority, to provide clarity on the future baseline of socio-economics and to consider a sequential cumulative assessment on the cultural element of the St Magnus Way pilgrimage route; this was provided within SEI dated December 2023.
- 12.110. The EIA Report baseline analysis of the identified 20 visitor attractions within the study area assesses the effects on the visitor attractions as negligible in regard to tourism or otherwise of negligible magnitude. These sites included a range of facilities including Kirbuster Museum, Earl's Palace in Birsay, Skara Brae and the Ring of Brodgar.
- 12.111. 64 accommodation providers were identified within the study area, most of which (58) were self-catering providers. The study again concludes that the effects are negligible for accommodation providers and how such businesses are marketed to guests.
- 12.112. Outdoor access in the form of recreational trails, with 11 such routes identified, were assessed. A negligible magnitude of effects was again stated for all studied trails. In relation to the St Magnus Way / pilgrimage route, a sequential cumulative assessment was produced and is provided in Appendix 3.3 of the SEI.

The visualisations of this longer distance route are considered and presented as a recreation and tourism matter in relation to supporting the conclusions as reached within the EIA Report. The effect is of low magnitude, even in proximity to the proposed development site, with negligible effect on tourism concluded.

- 12.113. The consultation response from the Council's Rural Planner in relation to access matters had no adverse comments, with no core paths or recorded rights of way being affected by the proposed development. It was noted that there is a claimed right of way adjacent to the site between Skelday Hill and Mid Hill with comment that access works may aide access opportunities in the area mindful of responsible access to the countryside in accordance with the provisions of the Land Reform (Scotland) Act 2003.
- 12.114. Concerns raised through representation over impacts to tourism have not been borne out by findings as presented within the EIA Report or SEIs. It is however acknowledged that it is problematic to quantify such impacts as may occur in relation to perceptions and the future experience of individuals. It is clear from the information presented that the development is not anticipated as having anything other than a negligible impact upon recreation and tourism in the study area. Appropriate planning condition(s) could be used to safeguard / secure public access rights as may be applicable.

### **Conflict with Adjoining Uses.**

- 12.115. In consideration of Policy 7, Energy, C (ii) All Renewables and Low Carbon Energy Developments of the Local Development Plan, it is recognised that renewable energy developments, and related transmission infrastructure, 'will be supported where it has been demonstrated that the proposal will not result in significant adverse effects on known constraints, either individually or cumulatively'.
- 12.116. Approval of the repowering of the Ludenhill Turbine must be considered in relation to this policy provision. The operator of the Ludenhill Turbine has objected to this proposed development on the grounds that 'the impact is severe with effects on both the commerciality of the existing generation infrastructure as well as the operating integrity of the equipment itself'. This objection was first submitted in October 2022 and reiterated through further correspondence in June 2023.
- 12.117. The operator of Ludenhill Turbine has cited industry practice in consideration of separation distances between turbines, defined in terms of rotor diameters, typically four to five rotor diameters in a downwind direction subject to topography and numbers of turbines. All four of the proposed wind turbines

would be less than five rotor diameters distant from the Ludenhill Turbine, based on a 155 metre rotor diameter. The rationale being presented is that these principles:

‘A) minimise energy yield losses between turbines as a result of wake effects, as Councils are required to review the economic impact of renewable energy applications and

B) Avoid causing fatigue and stress on the turbine as a result of the increased turbulence and the impact that has on turbine component damage.’

- 12.118. Further assessment of wind shadowing effects was requested by the Planning Authority, to assess ‘wind shadowing’ impacts to the existing Ludenhill Turbine. This was not provided, and in SEI in June 2024 the position stated by the developer is that “the scenario whereby both the Ludenhill turbine (existing or repowered) operates concurrently with the Proposed Development, is not anticipated in practice” and that “a commercial arrangement between the Applicant and the operator of the Ludenhill turbine is ongoing”.
- 12.119. The operator of Ludenhill Turbine has not withdrawn the objection to date and neither has there been any indication from the operator of any agreement or otherwise in relation to the cessation of use of the Ludenhill Turbine or indication that the approved repowering will not be initiated. Lacking any evidence of such and mindful of the lodged objection from the operator of the Ludenhill Turbine, it is considered that this matter is unresolved.
- 12.120. The proposed development is therefore contrary to Local Development Plan Policy 1, Criteria for All Development (iii) and Policy 7, Energy, C – All Renewables and Low Carbon Energy Developments (i) and (ii) owing to the prejudicial nature of the proposed development and potential conflict and adverse impacts of the proposed development on the operation of the approved Ludenhill Turbine (as existing and as approved).

### **13. Conclusion**

- 13.1. In terms of the principle of the development, a balance requires to be applied to the consideration of the proposed development. On one hand are policies in relation to and support for the development type, principally Policy 7C of the Orkney Local Development Plan 2017 which confirms that development of renewable and low carbon energy schemes will be supported, subject to assessment of impacts on constraints, and Policy 7D as supported by Supplementary Guidance ‘Energy’, which provides a list of factors against which

wind energy development must be considered, and confirms the Spatial Strategy Framework, in the context of which the proposed development of a wind farm would be supported subject to compliance with the Development Criteria within the Supplementary Guidance. Even within the key policy considerations in favour of the development, a tilted balance exists, weighted towards Policy 11 of NPF4. In the context of onshore wind energy development, no incompatibility exists between the Local Development Plan and NPF4; however, Policy 11 of NPF4 has a stronger presumption in favour with a stated policy intent to encourage, promote and facilitate all forms of renewable energy development, subject to policy tests. The proposed development would provide limited socio-economic benefits locally. In the context of the decision overall, contribution towards meeting Government targets for the reduction in carbon dioxide emissions and, thus, in responding to the climate emergency is also considered limited.

- 13.2. It is considered that, subject to appropriate mitigation, including matters that could be controlled by appropriate planning condition, the issues of residential amenity (including noise and shadow flicker), ornithology, ecology, the water environment, aviation, defence, communications, traffic impact, construction and decommissioning, could be provided to an appropriate standard, meeting key policy tests, and the requirements of statutory consultation bodies.
- 13.3. The above is then balanced against those matters which cannot be adequately addressed or mitigated, specifically impact on landscape and visual amenity, compatibility with an existing land use in the form of the existing wind turbine within the application site, and critically impact on the historic environment, specifically impact on the setting of multiple nationally important Scheduled Monuments, and impact on the setting and Outstanding Universal Value of the Heart of Neolithic Orkney World Heritage Site.
- 13.4. In terms of impact on landscape and visual amenity, Policy 11(e)(ii) of NPF4 acknowledges that landscape and visual impacts are to be expected for wind energy development and requires that project design and mitigation must address significant landscape and visual impact. The same policy provision notes that wind energy developments will generally be considered acceptable where impacts are localised and/or appropriate design mitigations are applied. The Landscape Capacity Assessment for Wind Energy (2015) notes that, in the application site area, landscape capacity is for small scale developments of turbines up to 50 metres, or individual turbines up to 80 metres only. The Assessment is a strategic level landscape and visual study, and is not a substitute for an independent landscape visual and cumulative impact assessment, including one forming part of an EIA Report. However, this underlying capacity is a material consideration, in terms of



the extent to which the current development proposal exceeds the Assessment. Given the proposed scale of the wind farm and extent of visibility across parts of the West Mainland including on a sensitive ridgeline, the significant effects on landscape and coastal character, and significant effects on visual amenity in some locations out to approximately seven kilometres, including significant effects at 13 of the 19 representative viewpoints included in the EIA Report, the significance of landscape and visual amenity impacts are considered unacceptable, and impacts are not considered sufficiently localised to justify the significance of effects. The development is therefore considered contrary to Policy 11(e)(ii) of NPF4, and is also considered contrary to Policy 9G of the Local Development Plan which requires that “All development proposals must be sited and designed to minimise negative impacts on the landscape...” and that “Consideration should be given to the siting, scale and design of the proposal, as well as the potential for cumulative effects with other developments”.

- 13.5. Wind shadowing is a material planning consideration, in terms of the productivity of a wind turbine being affected by the proximity of another turbine. This is often a consideration for new turbines within a proposed wind farm development, to ensure positioning allows a separation distance between turbines to limit energy lost through wind shadowing from upstream turbines. In project design, it is often a balance between the benefits of a compact site, and the gains from maximising energy capture from greater separation distances. The planning system should support the optimal arrangement. In this case, it is relevant to consider the extant third party Ludenhill Turbine which is operational within the boundary of the current application site, and also the extant planning permission for its repowering and increased scale. This matter was raised in representations, and with the developer, with the response received that “the scenario whereby both the Ludenhill turbine (existing or repowered) operates concurrently with the Proposed Development, is not anticipated in practice” and that “A commercial arrangement between the Applicant and the operator of the Ludenhill turbine is ongoing”. No such commercial agreement has been submitted for consideration, and the proposed development is therefore considered contrary to Policy 7C of the Orkney Local Development Plan 2017, as it has not been “demonstrated that the proposal will not result in significant adverse effects on constraints”.
- 13.6. Impact on the historic environment is critical in this case. In the brief synthesis of the Outstanding Universal Value of the Heart of Neolithic Orkney World Heritage Site, UNESCO confirms that the four monuments that make up the Heart of Neolithic Orkney are unquestionably among the most important Neolithic sites in Western Europe, and the four main monuments, consisting of the four substantial

surviving standing stones of the elliptical Stones of Stenness and the surrounding ditch and bank of the henge, the 36 surviving stones of the circular Ring of Brodgar with the 13 Neolithic and Bronze Age mounds that are found around it and the stone setting known as the Comet Stone, the large stone chambered tomb of Maes Howe, whose passage points close to midwinter sunset, and the sophisticated settlement of Skara Brae, together with the Barnhouse Stone and the Watch Stone, serve as a paradigm of the megalithic culture of north-western Europe that is unparalleled.

- 13.7. The monuments on the Brodgar and Stenness peninsulas were deliberately situated within a vast topographic bowl formed by a series of visually interconnected ridgelines stretching from Hoy to Greeny Hill and back. They are also visually linked to other contemporary and later monuments around the lochs. They thus form a fundamental part of a wider, highly complex archaeological landscape, which stretches over much of Orkney. The current, open and comparatively undeveloped landscape around the monuments allows an understanding of the apparently formal connections between the monuments and their natural settings. The wealth of contemporary burial and occupation sites in the buffer zone constitute an exceptional relict cultural landscape that supports the value of the main sites. This fragile landscape is vulnerable to incremental change.
- 13.8. The development would have impacts on the setting of monuments in relatively close proximity and more distanced. It is concluded that the proposals would have a significant adverse impact on the integrity of the setting of six nationally important Scheduled Monuments: Hundland Hill, enclosure; Nisthouse, burial mound; Park Holm, artificial island and causeway; Stoney Holm, crannog; Ring of Brodgar, Stone Circle, Henge and Nearby Remains; and Stenness, Stone Circle and Henge.
- 13.9. In terms of the Ring of Brodgar, it is concluded that the proposals would significantly and adversely impact the integrity of the Ring of Brodgar's setting and undermine this element of the World Heritage Site's authenticity and integrity and therefore its Outstanding Universal Value. In terms of the Stenness, Stone Circle and Henge, as a result of the impact on the 360° views around the Sensitive Ridgelines from the centre of Stenness, the character of the monument's surroundings, key northward views out from the monument and on the modern visitor approach, it is concluded that the development would significantly and adversely impact on the integrity of Stenness' setting, and that the development would also undermine this element of the World Heritage Site's authenticity and integrity and therefore its Outstanding Universal Value.

- 13.10. The development would have a cumulative impact on both monuments' settings, the Sensitive Ridgelines and the World Heritage Site's Outstanding Universal Value. In addition to the existing wind farms and masts, the Sensitive Ridgelines in this direction would be affected by several consented wind farms or those under consideration, including Costa Head, Quanterness and Hoy. However, the current proposals would be significantly more prominent in their appearance on the Sensitive Ridgelines than any of these schemes and appear in key views from Stenness.
- 13.11. Overall, the proposed development would have a significant adverse impact on the integrity of the setting of five nationally important scheduled monuments. In terms of the Heart of Neolithic Orkney World Heritage Site, the development would have a cumulative impact on the setting of the Ring of Brodgar and Stenness, the Sensitive Ridgelines and would undermine the World Heritage Site's authenticity and integrity and Outstanding Universal Value. On the basis the World Heritage Site's Outstanding Universal Value would not be preserved or protected, the proposed development is contrary to policies 7(h) and 7(l) of National Planning Framework 4, and Policy 8 of the Orkney Local Development Plan 2017.
- 13.12. Policy 11 of NPF4 provides strong policy support for the development of onshore energy generation, including windfarms. The application site is not in a designated landscape where there would be a presumption against such development. Policy 11(e) requires impacts to be addressed through project design and mitigation. This aligns with the provisions of Policy 7 of the Orkney Local Development Plan 2017. Limited socio-economic benefits would also result from development. On balance, the benefits are concluded as being far outweighed by the impacts of the development. In terms of the technical matter of wind shadowing and energy loss affecting the operating wind turbine within the application site, a satisfactory conclusion has not been reached. Given the proposed scale of the windfarm and extent of visibility, the significance of effects on landscape and coastal character and visual amenity are considered unacceptable, and impacts are not considered sufficiently localised to justify the significance of effects. The development would have a significant adverse impact on the integrity of the setting of five nationally important scheduled monuments, and would have a cumulative impact on the setting of the Ring of Brodgar and Stenness Stone Circle and Henge, the Sensitive Ridgelines and would undermine the authenticity and integrity and Outstanding Universal Value of the Heart of Neolithic Orkney World Heritage Site.

13.13. The application is considered contrary to National Planning Framework 4, Policies 7(h) and 7(l), Orkney Local Development Plan 2017 Policies 1, 7, 8 and 9, Supplementary Guidance: Energy, Supplementary Guidance: Historic Environment and Cultural Heritage, Planning Policy Advice: Historic Environment (Topics and Themes), and Historic Environment Policy for Scotland.

## **14. Reasons for Refusal**

- 14.1. Wind shadowing is a material planning consideration, in terms of the productivity of a wind turbine being affected by the proximity of another turbine. The proposed development could result in energy lost through wind shadowing on an extant, operating wind turbine. No technical solution has been provided. The development is therefore contrary to Policy 7C of the Orkney Local Development Plan 2017, as it has not been demonstrated that the proposal will not result in significant adverse effects on constraints, and Policy 1(iii) as it would be prejudicial to the existing use of the wider area.
- 14.2. Given the proposed scale of the wind farm and extent of visibility, the significance of effects on landscape and coastal character and visual amenity are considered unacceptable, and impacts are not considered sufficiently localised to justify the significance of effects. The development is therefore considered contrary to Policy 11(e)(ii) of National Planning Framework 4, and Policy 9G of the Orkney Local Development Plan 2017, which requires that all development proposals must be sited and designed to minimise negative impacts on the landscape and that consideration should be given to siting, scale and design, as well as the potential for cumulative effects with other developments.
- 14.3. The development would have a significant adverse impact on the integrity of the setting of five nationally important Scheduled Monuments and would have a cumulative impact on the setting of the Ring of Brodgar, the Stenness Stone Circle and Henge and the Sensitive Ridgelines and would undermine the authenticity and integrity and Outstanding Universal Value of the Heart of Neolithic Orkney World Heritage Site. The development is subject to objection from Historic Environment Scotland, and is concluded as contrary to Policies 7(h) and 7(l) of National Planning Framework 4, Orkney Local Development Plan 2017 Policies 7 and 8, Supplementary Guidance: Energy, Supplementary Guidance: Historic Environment and Cultural Heritage, Planning Policy Advice: Historic Environment (Topics and Themes), and Historic Environment Policy for Scotland.

## **For Further Information please contact:**

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## **Implications of Report**

- 1. Financial:** None.
- 2. Legal:** Detailed in section 8 above.
- 3. Corporate Governance:** In accordance with the Scheme of Administration, determination of this application is delegated to the Planning Committee.
- 4. Human Resources:** None.
- 5. Equalities:** Not relevant.
- 6. Island Communities Impact:** Not relevant.
- 7. Links to Council Plan:** Not relevant.
- 8. Links to Local Outcomes Improvement Plan:** Not relevant.
- 9. Environmental and Climate Risk:** None.
- 10. Risk:** None.
- 11. Procurement:** None.
- 12. Health and Safety:** None.
- 13. Property and Assets:** None.
- 14. Information Technology:** None.
- 15. Cost of Living:** None.

## **List of Background Papers**

Orkney Local Development Plan 2017, available [here](#).  
National Planning Framework 4, available [here](#).

## **Appendix**

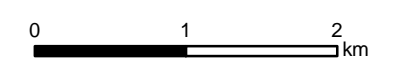
Appendix 1 – Location Plan.





KEY

Site Boundary



Scale 1:50,000 @ A3



Nisthill Wind Farm  
SEI Report June 2024

Figure 1.1  
Site Location Plan

Date: 04/06/2024	Drawn by: EB	Checked by: EB	Version: v1
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Project Number: 3586