



## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997

---

Report by Chris Norman, a reporter appointed by the Scottish Ministers

- Case reference: NA-PAK-020
- Site Address: Aviva Headquarters, Pitheavlis, Perth PH2 0NH
- Application for planning permission 18/01662/FLL dated 6 September 2018 called-in by notice dated 21 January 2020
- The development proposed: erection of one wind turbine (77 metres to tip) and ancillary equipment
- Date of site visits by Reporter: 10 March 2020 and 5 June 2020

Date of this report and recommendation: 17 August 2020

---



## CONTENTS

## Page

Summary Report	2
Preamble	8
<b>Chapters</b>	
1. Background	10
2. The planning application	11
3. Policy and guidance	15
4. The cases for the parties	20
• The case for the applicant	20
• Perth and Kinross Council's position	22
• Historic Environment Scotland's objection	22
• Scottish Natural Heritage's position	24
• Other consultees' responses	24
• Representations by interested parties	25
5. The reporter's conclusions	26
6. Recommendation	32
<b>Appendices</b>	
Appendix 1: Key documents	
Appendix 2: List of those making representations	
Appendix 3: Recommended conditions in the event of planning permission being granted	
<b>Abbreviations</b>	
AOD	Above Ordnance Datum
EIA	Environmental impact assessment
HES	Historic Environment Scotland
kW	Kilowatts
kWh	Kilowatt hours
LCT	Landscape character type
LRB	Local review body
RSM	Regulatory Services Manager
SNH	Scottish Natural Heritage



**Erection of one wind turbine (77 metres to tip) and ancillary equipment at Avia, Pitheavlis, Perth PH2 0NH**

• Case reference	NA-PAK-020
• Case type	Planning permission call-in
• Reporter	Chris Norman
• Applicant	Aviva Ltd.
• Planning authority	Perth and Kinross Council
• Other parties	Historic Environment Scotland
• Date of application	6 September 2019
• Date case received by DPEA	21 January 2020
• Method of consideration and date	Written submissions, accompanied site inspection on 10 March 2020 and unaccompanied site inspection on 5 June 2020
• Date of report	17 August 2020
• Reporter's recommendation	Refuse planning permission

**SUMMARY**

***Reason for call-in***

Scottish Ministers called-in the planning application in view of the proposed development's potential significant adverse impact on the setting of the category A listed Aviva building, Pitheavlis, Perth.

***The site and its surroundings***

The Aviva facility at Pitheavlis occupies some 12.5 hectares of land in the south-western part of Perth, around 1.5 kilometres from the city centre. To the south the site is separated from the M90 motorway by a mature band of conifer planting; Craigie Hill golf course is located to the east; and to the north-west there is housing at the B9112 Necessity Brae which is, in turn, separated from the site by a coniferous tree belt.

***The proposal***

The planning application seeks permission for the erection and operation of a wind turbine on land some 40 metres south-east of the listed building. The proposed turbine would be light-grey in colour and would have a generating capacity of between 800 kW (kilowatts) and 900 kW. It could supply around 50% of the electricity needs of the Aviva site, equal to the 50% presently sourced from the array of solar panels in the nearby car parking area.

Planning permission is sought for 25 years, after which time the turbine would be decommissioned. The proposal is for the use of an 'Enercon E53' turbine or similar, with a hub height of 55 metres, with each of the three blades being 22 metres long.

### ***Planning policy context***

The development plan covering the site comprises TAYplan 2017 and the Perth and Kinross Local Development Plan 2 (2019). Both the initial delegated determination of the application and the decision of the council's local review body (LRB) were made when the Perth and Kinross Local Development Plan 2014 was in force. On 29<sup>th</sup> November 2019 that plan was replaced by the current development plan, the Perth and Kinross Local Development Plan 2 (the local development plan).

The strategic development plan and the local development plan both contain policies that seek to protect the cultural and historical heritage of Perth and Kinross and promote renewable energy development, in the right place. Policy 33D of the local development plan identifies the site as being within 'Group 2', an area of significant protection, in the council's spatial framework for wind energy. Development plan policies set out the criteria that are to be taken into account in determining the application and include the need for an assessment of the proposal's impact on the setting of a listed building. This is echoed in Scottish Planning Policy 2014 (SPP) which contains Scottish Ministers' policies on the historic environment, and the development of a low carbon economy. Historic Environment Scotland (HES) has published a suite of policy and guidance, including the Historic Environment Policy for Scotland (2019) and 'Managing Change in the Historic Environment: Setting' (2016), which are material considerations in the determination of the planning application.

### ***The case for the applicant***

The company's aim is to supply its Perth facility with 100% on-site generated renewable electricity which could then become an exemplar for the Aviva Group in a worldwide context. If the application is approved, then around 100% of the electricity used at Pitheavlis could be derived from renewable energy. It could annually offset at least 800 tonnes of additional atmospheric carbon dioxide, 18 tonnes of sulphur dioxide and 5 tonnes of nitrous dioxide. The use of an 800kW turbine could generate, on average, as much electricity as could be consumed by 481 households, rising to 541 households if a larger turbine model is used.

To the applicant the proposal would improve the energy efficiency of the listed building in line with former local development plan policy 27B 'Listed Buildings', repeated in the adopted plan. Mitigation measures, comprising of improving public access to the interior of the building and a local archaeological fund, would be made available.

The applicant agrees that there is potential for the proposed development to affect the setting of the listed building. It is argued however that this has to be balanced against the benefits of the proposed development, which includes improving the energy efficiency of the building and allowing it to continue to be a 'fit for purpose' office space in the twenty-first century. It is submitted that the impact of the turbine requires to be balanced with the proposal's wider benefits in terms of tackling climate change and supporting the local economy.

### ***The case for Perth and Kinross Council***

In accordance with its scheme of delegation Perth and Kinross Council (the council) refused the planning application on 17 January 2019. On 12 April 2019 the applicant submitted a 'Notice of Review' to the council's Local Review Body (LRB), accompanied by a 'Review Statement' which set out the applicant's position that planning permission for the proposal ought to be granted. Although located on the south-western fringe of Perth the proposed turbine is some 342 metres from housing which the applicant's environmental statement recognises could, on occasion, be impacted by noise and shadow flicker when the turbine is operational.

The LRB met on 28 May 2019 and deferred its decision because of insufficient information being available on noise and shadow flicker.

Following the receipt of supplementary information the council's Regulatory Services Manager (RSM) concluded that the effect of shadow flicker on adjacent properties would be 'relatively low'. If planning permission were to be granted a condition would be necessary to ensure that residential amenity is not adversely affected by shadow flicker. Similarly supplementary noise information sought to address matters raised earlier by the council's RSM. To the RSM this supplementary information satisfactorily clarified matters. Accordingly, the RSM was satisfied that noise from the proposed turbine should not have a detrimental effect on residential amenity, subject to the imposition of specific conditions.

A second meeting of the council's LRB took place on 20 August 2019 when, because of the availability of information about noise and shadow flicker, the LRB was minded to grant planning permission for the wind turbine by a majority decision, and the application was to be referred to Scottish Ministers, it being contrary to an objection from Historic Environment Scotland. On 21 January 2020 Scottish Ministers directed that the application be referred to them.

### ***The case for Historic Environment Scotland (HES)***

The Aviva Building was constructed between 1979 and 1983. It is described by HES as a 'late modernist' insurance company headquarters in an extensive landscaped setting. The building was listed as category 'A' because, to HES, it is an outstanding example of commercial office design in Scotland from the late 20th century, and that the later modernist character of the building survives largely intact. Due to the quality of its architectural design it is amongst the very best of its type in Scotland.

HES conclude in the building's 'Statement of Special Interest' that:-

*“the Aviva Building is among the finest of Scotland's commercial office buildings of its period. It is distinguished by its construction techniques and planning, thorough attention to detail, and its high quality material specifications. The use of the modular 10 x 10 metre tartan grid with built-in flexibility evidences late-Modernist trends in later 20th century office planning. It is among the best of a small number of major headquarters office buildings in Scotland which provided working areas in flexible modules, using stepped plan forms to connect buildings with their green-field landscapes. The use of roof top gardens, merging the building further with the hillside, is a sensitive response to its wider suburban greenfield setting. Artwork, both internal and external, is integral to the design ethos, adding further to the special interest of the building”.*

In terms of the building's setting, the 'Statement of Special Interest' advises that:-

*"The building was designed to emerge from the hillside setting to the south of the city as a series of stepped terraces with rooftop gardens. The 'ground-scraping' ziggurat design makes an immediate visual impression while simultaneously acknowledging the existing skyline. The arrangement of the modular blocks within the grid plan suggest the appearance of rocky outcrops which camouflage the building further when viewed in its entirety from high ground within the city. The building has been described as 'a truly exciting design in a very visible location which not only takes on the topography of the site but enhances it'. The hillside location also provides panoramic views over the city. This inter-visible association reinforces the historic links between the insurance industry and the city of Perth, adding to the building's sense of place and its corporate identity".*

HES object to the application because the proposed wind turbine would have a significant adverse impact on the setting of category A-listed Aviva building. It is HES's view that the proposal raises issues of national interest and is contrary to paragraph 141 of Scottish Planning Policy (SPP).

### ***The position of Scottish National Heritage (SNH)***

SNH has advised that, due to the location of the proposal on the edge of the 'bowl' shaped topography south-west of Perth, it could be the most visible tall structure in the city area. It would be a new, large-scale element in important views towards and across the city, and moving blades would exacerbate this effect. It would be a distinctive feature that would draw the viewer's eye and it could become a major orientating feature.

### ***Other consultees' responses***

The Scottish Environment Protection Agency (SEPA) was consulted and if planning permission is granted mitigation measures would be required to protect the watercourses that flow through the adjacent Buckie Braes. In addition a construction management plan and construction method statement ought to be submitted and approved if the development were to proceed. The Ministry of Defence, whilst not objecting, has requested that the turbine is fitted with aviation safety lighting. National Air Traffic Services has confirmed that the proposal does not impact on any airfield safeguarding areas. The environmental statement concludes that the proposal would not cause any significant adverse impacts in relation to protected or notable habitats or species, or nationally or internationally designated sites. There would be no significant effect on a Natura site. This is not disputed by the council or by SNH.

The Aviva site is served by a private access from the public road at Necessity Brae. The internal access would be used to access the position of the crane pad and construction compound and the turbine components would be transported along public roads. The route and any highways improvements required would need to be agreed with the relevant highways authorities. To Transport Scotland conditions should relate to routeing, road improvements and traffic control, if necessary.

### **Representations by interested parties**

Some 12 representations have been received on the proposal, with seven of those supporting the development and 5 opposing it. Persons opposing the proposal point to the negative effect that the wind turbine, described as an 'immense structure', would have on

the 'architectural excellence' of the Aviva building and the rural setting of Perth. It would be out of character with the appearance of the surrounding area, having an unacceptable visual impact for residents and visitors. The turbine could also give rise to noise in nearby residential areas and cause safety concerns. Those supporting the proposal point to the need for increased renewable energy to aid the combat of climate change.

### **The reporter's assessment**

The planning application requires to be determined under the Town and Country Planning (Scotland) Act 1997 (as amended) (the 1997 Planning Act). However Scottish Ministers must also exercise their decision making powers in accordance with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the 1997 Listed Buildings Act).

Having regard to the development plan the principal issues in assessing this planning application are whether the proposal would adversely affect the setting of the category A listed Aviva building. It is also necessary to determine whether the proposal would give rise to an adverse effect on the residential amenity of persons living in its vicinity. Thirdly it is necessary to assess the wider impact that the proposed turbine would have on the landscape and ecology of the southwestern part of Perth, and whether there are any other related environmental issues that could not otherwise be satisfactorily regulated by the imposition of planning conditions. If adverse environmental effects are identified, it is necessary to determine whether the renewable energy benefits that could accrue, and the proposed mitigation measures, could offset any such adverse effect.

The contemporary, late-modernist architectural theory that is inherent in the building's design is self-apparent. In particular its stepped, terraced and horizontal appearance, augmented by the maturing roof-top landscaping, is very visible from the north. During the summer period the harder finishes of the external walls are augmented by this attractive and maturing vegetation that compliments the geometric shape of the building. The building has a very substantial floor area but its terraced design means that it does not punctuate or otherwise disrupt the skyline. For a building of its size it is particularly well assimilated into the local landscape.

I judge that the listed building sits particularly comfortably within the topography of the north-facing slope. From the north the building is seen framed by maturing vegetation which, to the east, forms a buffer between the Aviva building and the more utilitarian design of the former sports building. The composition and sense of enclosure formed by this landscape framework, set along the ridgeline behind the building, compliments the maturing and attractive landscaping on the building's terraces. In stark contrast, the potential impact of the rotating and vertical form of the turbine would be diametrically opposed to the horizontal emphasis and linear built-form of the listed building. There is no doubt that the proposed very tall, vertical, moving structure would, in its entirety, dominate the skyline east of the category A listed building. It would undermine the very qualities that are an integral part of the design philosophy of the modernist building. It would disrupt the flow of the horizontal lines of the building and, as typically evidenced in Viewpoint 1, it would dominate the view southeast from the B9112. The proposal would have a significant adverse effect on the setting of the Aviva building.

Overall the setting of the Aviva building is an integral part of its architectural and historic interest which is therefore desirable to preserve. The proposal would be contrary to the development plan, Scottish Planning Policy and the guidance and policies of Historic Environment Scotland. In accordance with the Town and Country Planning (Scotland) Act

1997 and the Planning (Listed Buildings and Conservation Areas)(Scotland Act 1997, I recommend that planning permission is refused.

**Recommendation**

I recommend that planning permission be refused.

In the event that Ministers are nevertheless minded to grant planning permission, I recommend the attachment of the conditions listed in Appendix 3 to this Report.



Scottish Government  
Planning and Environmental Appeals Division  
4 The Courtyard  
Callendar Business Park  
Callendar Road  
Falkirk  
FK1 1XR

DPEA case reference: NPA-PAK-020

The Scottish Ministers  
Edinburgh

Ministers

In accordance with my minute of appointment of 21 February 2020, on 10 March 2020 I carried out an accompanied site inspection in connection with the application for planning permission for the erection of a proposed wind turbine adjacent to the Aviva building, Pitheavlis, Perth, a category A listed building.

The planning application seeks full permission for the erection and operation of a 77 metre high wind turbine some 40 metres south-east of the Aviva building. Under section 46(1) of the Town and Country Planning (Scotland) Act 1997, on 21 January 2020 Scottish Ministers issued a direction requiring that the planning application to be referred to them for determination. The Direction was made in view of the proposed development's potential significant adverse impact on the setting of the category A listed building.

Following my accompanied site inspection I issued a procedure notice requiring the submission of additional information from Historic Environment Scotland and from Perth and Kinross Council. On 5 June 2020 I also visited, unaccompanied, the locations referred to in the written submissions and representations that have been received on the proposal.

My further information request sought comments from the council's regulatory services manager in respect of noise and shadow flicker; comments from Historic Environment Scotland on the background to the designation of the Aviva building as a category A listed building and the extent of its curtilage; and details of the relevant policies in the now adopted Perth and Kinross Local Development Plan 2019. I also sought a schedule of possible conditions, and the background to the council's grant of planning permission for the array of solar panels to the south of the building. Since then I requested comments from parties on the recent Historic Environment Policy for Scotland, published by HES in May 2019.

The proposed development is subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 EIA regulations"). I have examined the environmental information and have reached a reasoned conclusion on the significant environmental effects of the proposed development which I have integrated in the conclusion in my report. In that respect I have taken into account the environmental

impact assessment report; additional information on noise and shadow flicker submitted by the applicant; responses from Historic Environment Scotland and Scottish Natural Heritage; and representations from members of the public.

I am required by the 2017 EIA regulations to include information in my report in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in paragraph 4.29. My conclusions on the significant environmental effects of the proposal are set out in Chapter 5.

My report takes account of the written submissions and documents lodged by the parties. It also takes account of the environmental assessment, the applicant's Design and Access Statement and Planning Policy Statement, other environmental information submitted by the parties and the consultations and written representations made in connection with the proposal.

*Chris Norman*  
Reporter

## CHAPTER 1: BACKGROUND

1.1 On 6 September 2018 Aviva (the applicant) submitted a planning application, supported by an environmental statement, to Perth and Kinross Council seeking planning permission for the siting and operation of a 77 metres high wind turbine on land 40 metres south-east of the category A listed Aviva building at Pitheavlis, Perth. The car parking area where the turbine is proposed is expressly excluded from the listing address of the building and the turbine would not be affixed or otherwise attached to the listing building. Consequently it does not require listed building consent.

1.2 The company laudably aspires to reduce its global greenhouse gas emissions and, where feasible, wishes to utilise its own sites to produce renewable energy by reinvesting to make its business economically and environmentally sustainable. Worldwide, Aviva has reduced its carbon emissions by 53% since 2010. The company's aim is to supply its Perth facility with 100% on-site generated renewable electricity which could become a worldwide exemplar for the Aviva Group. In April 2017 roof mounted photo voltaic panels were installed within the car parking area south of the main building producing some 63,000 kWh of renewable energy, around 50% of the demand of the Perth facility. If the current application is approved then around 100% of the electricity used at Pitheavlis could be derived from renewable energy.

1.3 In accordance with its scheme of delegation Perth and Kinross Council (the council) refused the planning application for the turbine on 17 January 2019. In so doing the council's appointed officer considered that the scale and siting of the turbine would have a significant detrimental impact on landscape character, the historic environment, cultural heritage and, because of insufficient information about noise and shadow flicker, on residential amenity. The council determined that the application was contrary to the development plan and SPP, and there were no material reasons to justify departing from the development plan. Subsequently, on 12 April 2019 the applicant submitted a 'Notice of Review' to the council's Local Review Body (LRB), accompanied by a 'Review Statement' which set out the applicant's view that planning permission for the proposal ought to be granted. On 28 May 2019 the LRB met and deferred its decision because of continuing insufficient information on noise and shadow flicker impacts.

1.4 A second meeting of the council's LRB took place on 20 August 2019 when, because of the then availability of noise and shadow flicker information, the LRB was minded to grant planning permission for the wind turbine, by a majority decision. For statutory reasons set out in the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 the application was to be referred to Scottish Ministers, it being contrary to an objection from Historic Environment Scotland. The council has issued a 'prospective' review decision notice setting out its reasons for being minded to grant planning permission, contrary to the views of the appointed officer, and containing a draft schedule of conditions.

1.5 On 21 January 2020 Scottish Ministers directed that the application be referred to them in view of the proposed development's potential significant adverse impact on the setting of the category A listed Aviva building.

## **CHAPTER 2: THE PLANNING APPLICATION**

2.1 The Aviva facility at Pitheavlis, some 2.0 kilometres south-west of Perth City Centre, occupies around 12.5 hectares of land. At the site, previously the former General Accident Headquarters, some 1200 employees work across a range of departments in the company which is the largest general insurer in the United Kingdom. The site is separated from the M90 motorway to the south by a mature band of conifer planting. There is woodland at Buckie Braes and Craigie Hill Golf Club to the east. Around 350 metres to the north-west is housing at Cherrybank, west of the B9112 Necessity Brae, and it is separated from the site by a coniferous tree belt. Pylons are around 1.3 kilometres in the countryside to the south-west and telecommunications masts are sited at Mailer Hill and St. Magdalene's Hill to the south-east.

2.2 The planning application and environmental statement submitted by Aviva seeks full planning permission for the siting of a wind turbine on land some 40 metres south-east of the category A listed Aviva building. The proposed light-grey turbine would have a generating capacity of between 800 kW (kilowatts) and 900 kW. The turbine could supply around 50% of the electricity needs of the Aviva site, and complement the 50% presently sourced from the array of solar panels in the car parking area to the south of the main building. Planning permission is sought for 25 years, after which time the turbine would be decommissioned. An 'Enercon E53' turbine or similar, with a hub height of 55 metres, would be used. The total height from ground level to blade tip is 77 metres with the length of the three blades being 22 metres. If the development were to proceed it would require to be installed with Ministry of Defence (MoD) aviation safety lighting. The proposal includes ancillary plant, a crane hardstanding and a temporary construction compound. It would take around 4 months to complete and would be subject to a construction management plan.

### **Landscape and Visual Effects**

2.3 The proposed turbine would be located at a height of around 90 metres AOD on the southern, more elevated part of the Aviva site, much of which supports mature landscaping and extensive car parking and which contains an array of solar panels, granted planning permission in 2017. The site is not part of, or adjacent to, either a statutory or non-statutory landscape designation. It would not affect any woodland protected by a tree preservation order.

2.4 To understand the landscape and visual effects of the proposed turbine, as part of the scoping exercise for the preparation of the environmental statement, and in consultation with the council and Scottish Natural Heritage (SNH), some 11 viewpoints were selected by the applicant. To the applicant the proposed turbine would have no significant effect on rural landscape character types, or the urban area of Perth or adjoining settlements, although it would be clearly visible from localised receptors. The turbine would give rise to the loss of a small area of amenity grassland within the site. Cumulative effects from the closest large scale windfarm, at Lochelbank, Glenfarg, are not regarded as being significant.

2.5 As identified in the Perth and Kinross Landscape Character Assessment the site is located within the 'Urban' landscape character type (LCT) and close to the boundary with the 'Lowland Hills' LCT. To the applicant the predicted effect on the Urban LCT and adjacent Lowland Hills LCT would be 'moderate/minor adverse' and it would not be significant. SNH agree that further afield the impact upon all other LCT's would be minor

and not significant. However SNH has advised that, due to the location of the proposal on the edge of the 'bowl' shaped topography south-west of Perth, it could be the most visible tall structure in the city area. It would be a new, large-scale element in important views towards and across the city, and moving blades would exacerbate this effect. It would be a distinctive feature that would draw the viewer's eye and it could become a major orientating feature in the area.

2.6 From my two inspections of the site and its surrounding area I conclude that the more significant views of the proposed turbine would be from the south-western part of the urban areas of Perth, around Burghmuir and Cherrybank, in the vicinity of Perth Academy and Viewlands Primary School. Other dominant views would be seen from the southbound A93, and from the M90, where the upper parts of the turbine and its blades would be visible.

### **The cultural heritage**

2.7 The Aviva Building was designed by Dundee based James Parr and Partners and constructed between 1979 and 1983. It is described by Historic Environment Scotland (HES) as a late 'modernist' insurance company headquarters in an extensive landscaped setting. The building was listed as category 'A' because, to HES, it is an outstanding example of commercial office design in Scotland from the late 20th century, and that the later modernist character of the building survives largely intact; due to the quality of its architectural design it is amongst the very best of its type in Scotland.

2.8 The underlying vision of the Perth based former General Accident company was its ambitions for a new world headquarters building. Taking advantage of panoramic views over the host city, the building's internal "office landscaping" enhances its user experience, and the grid form arranged over five levels of terracing is a key to the design of the building. The building was listed some 34 years after it was built, and thus its designation is resultant from its definitive architectural quality. I am in little doubt about the exemplary architectural treatment afforded to the design of the building, as set out in great detail in the "Statement of Special Interest" prepared by HES.

2.9 The building was listed at category A on 28 August 2017 in accordance with the then Historic Environment Scotland Policy Statement 2016. Its category 'A' designation has no legal status. Rather it is advisory, but to HES it affects how a building is managed in the planning system. Category 'A' buildings are defined as 'buildings of special architectural or historic interest which are outstanding examples of a particular period, style or building type'. The legal part of the listing is the statutory address and, in addition to the building, includes the landscape concourse and two metal structures to the south, a granite sculpture to the north west, but excludes the power plants to the east, the car port and car parking area to the south and the former recreation centre to the east.

2.10 The building comprises of five modular terrace levels with landscaped roof top gardens, stepped back into the hillside. There are nine enclosed garden courtyards interspersed through the levels. The building is clad with ribbed pre-cast concrete and quartz aggregate panels with matching cills and copes, suggesting the appearance of striated rock. The external walls have a high proportion of glazing. There is extensive architectural interest within the building's 25,000 square feet interior and the sculptures adjacent to its principal entrance. Of particular architectural or historic interest, as described by HES, is the interior, the grid plan form, the inherent technological excellence, innovation, design quality and its setting.

2.11 As background it is helpful to note that in the building's 'Statement of Special Interest' HES conclude that:-

*“the Aviva Building is among the finest of Scotland's commercial office buildings of its period. It is distinguished by its construction techniques and planning, thorough attention to detail, and its high quality material specifications. The use of the modular 10 x 10 metre tartan grid with built-in flexibility evidences late-Modernist trends in later 20th century office planning. It is among the best of a small number of major headquarter office buildings in Scotland which provided working areas in flexible modules, using stepped plan forms to connect buildings with their green-field landscapes. The use of roof top gardens, merging the building further with the hillside, is a sensitive response to its wider suburban greenfield setting. Artwork, both internal and external, is integral to the design ethos, adding further to the special interest of the building”.*

2.12 In terms of the building's setting, the 'Statement of Special Interest' advises that:-

*“The building was designed to emerge from the hillside setting to the south of the city as a series of stepped terraces with rooftop gardens. The 'ground-scraping' ziggurat design makes an immediate visual impression while simultaneously acknowledging the existing skyline. The arrangement of the modular blocks within the grid plan suggest the appearance of rocky outcrops which camouflage the building further when viewed in its entirety from high ground within the city. The building has been described as a truly exciting design in a very visible location which not only takes on the topography of the site but enhances it'. The hillside location also provides panoramic views over the city. This inter-visible association reinforces the historic links between the insurance industry and the city of Perth, adding to the building's sense of place and its corporate identity”.*

### **Other environmental and planning effects**

2.13 Although located within the southwestern fringe of Perth the proposed turbine is some 342 metres from housing which the applicant's environmental statement recognises could be effected by noise and shadow flicker when the turbine is operational. The council's Regulatory Services Manager (RSM), in assessing the proposal, initially considered that there was insufficient information to conclude that the proposed turbine would not seriously impact on residential amenity. Further information on noise and shadow flicker, sought by the council's LRB in June 2019, was duly submitted and the applicant set out the view that noise and shadow flicker are commonly regulated by planning conditions, examples of which were cited.

2.14 Shadow flicker can impact on the enjoyment of domestic properties and the applicant submits that, of the theoretical 1017 receptors identified as potentially being affected, around 191 properties could be subject to shadow flicker for more than 30 hours a year for periods of more than 30 minutes each day. To the applicant this can be mitigated and it would be normal practice for the turbine to be programmed not to operate when shadow flicker is likely to occur, therefore mitigating these worst case effects. Following his receipt of the supplementary information on shadow flicker the council's RSM concluded that the effect of shadow flicker on adjacent properties would be 'relatively low', and if planning permission is to be granted for the turbine a condition is necessary to ensure that residential amenity is not adversely affected.

2.15 The applicant's supplementary noise information sought to address matters raised earlier by the council's RSM and it describes chosen receptors. These locations are

representative of housing adjacent to the site and include locations in Low Road, Robb Place, Bell Gardens, Pitheavlis Crescent, Arthur Park and Woodside Crescent. To the RSM the means of selection of sensitive receptors and meteorological information was clarified and other points initially raised are satisfactory addressed. As such the RSM is satisfied that noise from the proposed turbine, as concluded in the EIA noise assessment, should not have a detrimental effect on residential amenity, subject to the imposition of specific conditions.

2.16 It is necessary to have regard to the potential effects of the proposal on the water environment, soils and geology. The Scottish Environment Protection Agency (SEPA) require mitigation measures to protect watercourses that flow through the adjacent Buckie Braes. In addition a construction management plan and construction method statement must be submitted and approved, if the development were to proceed. The Ministry of Defence has requested that the turbine is fitted with approved aviation safety lighting. National Air Traffic Services has confirmed that the proposal does not impact on any airfield safeguarding areas. The environmental statement concludes that the proposal would not cause any significant adverse impacts or effects in relation to protected or notable habitats or species, or nationally or internationally designated sites. There would be no significant effect on a Natura site. This is not disputed by the council nor SNH.

2.17 The Aviva site is served by a private access from the public road at Necessity Brae. The internal access would be used to access the position of the crane pad and construction compound and the turbine components would be transported along public roads. The route and any highways improvements required would need to be agreed with the relevant highways authorities. To Transport Scotland conditions should relate to routeing, road improvements and traffic control, if necessary.

## **CHAPTER 3: RELEVANT POLICIES**

### **Relevant legislation, policy and guidance**

3.1 The planning application requires to be determined under the Town and Country Planning (Scotland) Act 1997 (as amended) (the 1997 Planning Act). Scottish Ministers must also exercise their decision making powers in accordance with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the 1997 Listed Buildings Act).

3.2 Section 37(1) of the 1997 Planning Act allows an application for planning permission to either be granted conditionally or unconditionally, or refused. Section 25 provides that “where, in making any determination under the planning Acts, regard is to be had to the development plan, and the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan”. Section 37(2) requires the determination of an application to “have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.” The development plan comprises the Perth and Kinross Local Development Plan 2 (2019) and the Tayside Strategic Development Plan (TAYplan) 2017.

### **The development plan**

3.3 Both the initial delegated determination of the application and the decision of the council’s LRB were made when the Perth and Kinross Local Development Plan 2014 was in force. On 29<sup>th</sup> November 2019 that plan was replaced by the current local development plan, the Perth and Kinross Local Development Plan 2 (the local development plan). In its response to my procedure notice the council provided me with a schedule of the replacement policies contained in the now adopted local development plan. The applicant confirmed to me that there were no further comments to make on the additional information provided by the council, including the newly adopted local development plan policies.

### ***TAYplan 2017***

3.4 TAYplan, the strategic development plan, addresses the historic environment at policies 2 and 9. Policy 2 ‘Shaping Better Places’ seeks to deliver better quality development that is distinctive by, amongst other things, ensuring the incorporation and enhancement of natural and historic assets. Policy 9 requires local development plans to safeguard the integrity of historic assets including historic buildings. Policy 7, not referred to in the applicant’s ‘Planning Policy Statement’ of September 2018, addresses energy and resources and sets out a range of considerations for development proposals for energy development, including listed buildings.

### ***The Perth and Kinross Local Development Plan 2019***

3.5 The local development plan comprises of four main sections with policies split into four groups, aligned with the policy themes identified in SPP. The local development plan contains supporting text and associated policies that support the council’s vision of Perth and Kinross as a successful and sustainable place, a low carbon place, a natural, resilient place and a connected place. I have studied the policy changes since the application was determined by the LRB that are now incorporated into the local development plan and I have set out below those key policies relevant to the determination of the application. The application site is proposed within employment land, allocated as site E165 in the local development plan, and is not within the Perth green belt. The local development plan



confirms that revised supplementary guidance on renewable and low-carbon energy is being prepared, although any emerging guidance is not before me in evidence. The applicant notes that the extant supplementary planning guidance for wind energy proposals was approved in May 2005 and is referred to in the applicant's Planning Policy Statement.

3.6 In supporting policies on successful places the plan acknowledges that successful communities are created by several factors including their environment and heritage. A key objective of the plan is the maintenance of distinctiveness and diversity through the protection and enhancement of the natural and historic environment. In its supporting text in relation to the delivery of a low-carbon place the plan acknowledges that climate change is a real and serious threat to the environment, that the planning system has a crucial role in the delivery of new renewable energy resources and development must make a positive contribution and help minimise the causes of climate change by the sustainable development of electricity generation. The plan's vision of Perth and Kinross being a natural, resilient place seeks to ensure that development and land uses address climate change and adapt to its impacts, while protecting the special character of the area's landscapes.

3.7 Policy 1A 'Placemaking' requires that development must contribute to the quality of the surrounding built and natural environment. It must also respect the character and amenity of the place where it is proposed. Subdivided into 3 categories, policy 1B 'Placemaking' sets out placemaking criteria which include the need to respect site topography and views of skylines, the requirement for sustainable design and construction and the need for design to respect its surroundings.

3.8 Policy 2 'Design Statements' requires the submission of a design statement for a proposal such as that at the listed Aviva building. The applicant has submitted a design statement in accordance with this policy.

3.9 Policy 7A 'Employment and Mixed-Use Areas' relates to business and industrial uses and any development must be compatible with surrounding land uses. Policy 7A(a) specifically requires that proposals should not detract from the amenity of adjoining residential areas.

3.10 Policy 27A 'Listed Buildings' gives encouragement to proposals that improve the energy efficiency of listed buildings, providing that improvements do not have a significant detrimental impact on the special architectural or historic interest of the building. The layout, design, materials, scale, siting and use of any development which would affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

3.11 Policy 33A 'New Proposals for Renewable and Low Carbon Energy' sets out a range of criteria which are to be taken into account in assessing proposals for renewable and local carbon energy and which include the historic environment and cultural heritage, residential amenity and the contribution towards meeting carbon reduction and renewable energy targets.

3.12 Policy 33D 'Spatial Strategy for Wind Energy' applies to proposals that include an individual turbine with a height above 50 metres to blade tip. The council has confirmed that the application site lies within an area denoted as 'Group 2' on policy Map C 'Spatial Framework for Wind Energy'. Group 2 is designated as an 'Area of Significant Protection'. Within 'Group 2' proposals are required to take into account the spatial framework and all

other relevant local development plan policies and material considerations. The spatial framework identifies those areas that are likely to be appropriate for onshore wind farms as a guide for developers and communities, following the approach set out in Table 1 of Scottish Planning Policy 2014.

3.13 Policy 39 'Landscape' requires that development should be compatible with the distinctive characteristics and features of the landscapes of Perth and Kinross. Development must not erode local distinctiveness, diversity and the quality of Perth and Kinross's landscape character areas, including the historic and cultural dimension of the area's landscapes.

### **The National Planning Framework for Scotland 3**

3.14 The National Planning Framework for Scotland 3, published in June 2014 sets out a long term vision for Scotland over the next 20 to 30 years, with opportunities for all by increasing sustainable economic growth. Planning is seen as a means of delivering, and has at its heart, the need for Scotland to be a successful country with potential to be a world leader in low carbon energy generation.

### **Scottish Planning Policy (SPP)**

#### *The planning system*

3.15 The purpose of the SPP is to set out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. Scottish Planning Policy 2014 reaffirms the statutory status of the development plan in the determination of planning applications. A presumption in favour of sustainable development is established. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. Planning should take every opportunity to create high quality places by taking a design-led approach. "The aim is to achieve the right development in the right place; it is not to allow development at any cost."

#### *Valuing the historic environment*

3.16 Paragraph 136 of SPP sees the historic environment as a key cultural and economic asset. Policy principles are set out at paragraph 137 and the planning system is required to promote the care and protection of the designated historic environment. This includes individual assets, and their related settings, and their contribution to a sense of place. SPP defines 'setting', as being related to the function or use of a place, or how it was intended to fit into the landscape, the view from it or how it is seen from surrounding areas. The planning system should enable positive change in the historic environment which must be informed by a clear understanding of the importance of the heritage assets affected. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric, and setting, of the asset, and ensure that its special characteristics are protected, conserved or enhanced. At paragraph 140 the siting and design of development should take account of all aspects of the historic environment.

3.17 Paragraph 141 sets out policies on change to a listed building. Where planning permission is sought for development affecting a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale,

siting and use of any development which would affect its setting should be appropriate to the character and appearance of the building and setting. At paragraph 141 listed buildings should be protected from work that would adversely affect it, or its setting.

### *Delivering heat and electricity*

3.18 SPP contains a framework for the development of a low carbon place. The planning system is to support the change to a low carbon economy and SPP requires a diverse range of electricity generation to be guided to appropriate places as set out at paragraph 154. Table 1 of SPP sets out those national and international designations which need significant protection, but excludes listed buildings. 'Wind farms' and single turbines are likely to be acceptable beyond groups 1 and 2, subject to detailed consideration against identified policy criteria. Paragraph 169 sets out a range of criteria which includes impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker landscape and visual impacts, impacts on the historic environment, including listed buildings, and their settings.

### **Historic Environment Policy for Scotland (HEPS) ( May 2019)**

3.19 'Our Place in Time: the Historic Environment Strategy for Scotland' (2014) is the Scottish Government's strategy for the protection and promotion of the historic environment. The non-statutory Historic Environment Policy for Scotland (HEPS) (2019), and the Historic Environment Scotland Circular (2019), complement SPP and provide further policy direction. HEPS was published after the submission of the planning application, the objection submitted by HES and the application's determination by the council's appointed officer. I sought comments on HEPS' contents, and on the Historic Environment Scotland Circular from the applicant, the council and HES, in relation to the application before me.

3.20 The Historic Environment Scotland Circular sets out the regulations and procedures of secondary legislation that relates to the historic environment.

3.21 HEPS helps to deliver the vision and the aims of 'Our Place in Time'. It supports and enables good decision making for Scotland's 'unique places' and requires to be taken into account whenever a decision would affect the historic environment. HEPS contains policies for managing the historic environment and identifies challenges and opportunities for the historic environment, including climate change. It provides several definitions of terms that relate to the historic environment, including 'cultural significance' which can be embodied in a place itself, and include its setting.

3.22 HEPS sets out 6 policies for managing the historic environment. Historic Environment Policy (HEP) 1 requires that decisions affecting the historic environment require to be informed by an inclusive understanding of its breadth and cultural significance. Policy HEP2 requires that decisions affecting the historic environment ensure that its understanding and enjoyment, and benefits, are secured for present and future generations. Policy HEP3 includes the provision that if detrimental impact on the historic environment is unavoidable, it should be minimised and mitigation measures should be put in place. Policy HEP4 requires that changes to specific assets and their context should be managed in a way that protects the historic environment and if detrimental impact on the historic environment is unavoidable, it should be minimised. Policy HEP5 provides that decisions affecting the historic environment should contribute to sustainable development and, finally, at policy HEP6, decisions should be informed by an inclusive understanding of the potential consequences for people and communities.

3.23 Each of these core principles are expanded in HEPS. Specifically policy HEP2, policy HEP3 and policy HEP4 relate to managing change in the historic environment and reference is made to the HES 'Managing Change' series which includes specific guidance on 'setting'.

### **Managing Change in the Historic Environment: Setting (2016)**

3.24 The 'Managing Change' series aims to identify the main issues that arise in different situations and is intended to inform the determination of applications that relate to the historic environment. The guidance note on 'setting' applies to proposed developments that could impact on the setting of listed buildings.

3.25 Setting is seen in the guidance as being important in the way historic structures are understood, appreciated and experienced. Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. If proposed development is likely to impact on the setting of a key historic asset, an objective written assessment should be prepared by the applicant to inform the decision-making process. The conclusions should take into account the significance of the asset and its setting and attempt to quantify the extent of any impact. Finalised development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

3.26 The guidance note recognises that the setting of an historic asset can incorporate a range of factors. In summary these can include the current landscape or townscape context and views to or from the historic asset. Also important are its aesthetic qualities and the prominence in views throughout the surrounding area. As set out in the guidance note this could include general and specific views such as foregrounds and backdrops from within an asset outwards, over key elements in the surrounding landscape, such as the view from a roof terrace.

3.27 The guidance note sets out three stages in assessing the impact of a development on the setting of an historic asset. These are the identification of the asset, the definition and analysis of the setting and how its surroundings contribute to the ways the asset is understood, and, finally, an evaluation of the potential impact of the proposed changes. Where the assessment indicates that there would be an adverse impact on the setting of a historic asset or place, even if this is perceived to be temporary or reversible, alterations to the siting or design of the new development should be considered to remove or reduce this impact.

### **Policy and guidance on renewable energy**

3.28 The applicant's Planning Policy Statement 2018 outlines the need for the proposed development based on an assessment of the need to implement legally binding national climate change targets by encouraging appropriate renewable energy development throughout Scotland. The applicant refers to a suite of policies since the United Nations 'Earth Summit' in 1992 to the Scottish Energy Strategy (2017) and Scotland's Climate Change Plan RPP3 (2018) which commit to delivering 50% of all Scotland's energy needs from renewables by 2030. Separate from the local development plan, no specific guidance on renewable energy has been brought to my attention by the council in support of its decision to approve the planning application.

3.29 HEPS recognises that climate change, and the effort required to mitigate and adapt to its effects, has a significant impact on the historic environment.

## CHAPTER 4 THE CASES FOR THE PARTIES

### The case for the applicant

#### *The company*

4.1 There are longstanding historic links between the insurance industry and the city of Perth. Aviva plc is the largest general insurer in the United Kingdom directly and employs some 1200 staff. Climate change is taken seriously by the company and on a worldwide basis since 2010 the company's carbon emissions have been reduced by around 53%. The company aspire to make their Perth complex a world exemplar site being 100% supplied by on-site renewables. Against the wider increase in the demand for electricity the applicant points to the emergence of international and national policy and the legal framework aimed at tackling climate change. The company stresses the importance of the Scottish Government's ambitious target of generating 100% of Scotland's electricity demand from renewable sources and the applicant acknowledges its national and local planning policy context.

#### *The benefits of the proposal*

4.2 The proposal would generate between 800-900kW of renewable electricity. It would annually offset at least 800 tonnes of additional atmospheric carbon dioxide, 18 tonnes of sulphur dioxide, and 5 tonnes of nitrous dioxide. The use of an 800kW turbine would generate, on average, as much electricity as would be consumed by 481 households, rising to 541 households, if a larger model is used. The turbine's wider benefits would include a reduction in transmission losses, a positive energy balance when measured against the manufacture of the turbine, a security of supply and economic benefits in an unstable economic climate.

#### *Planning policy*

4.3 In the 'Planning Policy Statement' the applicant refers to TAYplan, the strategic development plan, approved in October 2017. Specifically policy 2 'Shaping Better Quality Places' and policy 9 'Managing Tayside's Assets' are discussed. Here emphasis is placed upon local development plans to deliver better places and to protect historic assets.

4.4 Some two years after the submission of the planning application the Perth and Kinross Local Development Plan 2 was adopted by the council on 29 November 2019. The council responded to my request for details of the newly adopted local development plan's policies relevant to the application. The information was also received by the applicant who advised me that there were no further comments to be made.

4.5 The applicant makes reference to the council's Wind Energy Proposals Supplementary Planning Guidance (SPG) approved in May 2005. Specifically this SPG, prepared some 12 years prior to the listing of Aviva building, sees the site of the proposal within a sensitive area, outwith a broad area of search. I note that 'Guideline 2' provides that, in order to protect the setting of a listed building, if a turbine is within 20 times the height of its blade tip from, for example, a listed building it could appear to 'dwarf' the building and may be unacceptable. The turbine the subject of the planning application is proposed to be around 40 metres from the listed Aviva building. The applicant is mindful of

the council's successor and emerging 'Renewable Energy and Low Carbon Supplementary Guidance (SPG): Consultation Draft of July 2017'. This emerging SPG has not been approved by the council and may require to be subject to further consultation following the recent adoption the replacement local development plan. I can therefore attach little weight to its contents.

4.6 I have noted the applicant's extensive references in the planning application to the former local development plan's policies, and to what were then, prior to its subsequent adoption by the council, the emerging policies of the replacement local development plan. I have noted that the applicant concludes that the proposal is compliant with a range of policies of the superseded local development plan, including those on ecology, the water environment, shadow flicker, noise, infrastructure, socio-economic effects and carbon reduction. In each case it is submitted that the proposal would also comply with what was then the emerging replacement local development plan. In conclusion, to the applicant whilst the proposed development would give rise to some localised effects upon the landscape and visual appearance of the area, it would not have an adverse effect upon the landscape as a whole. Similarly, the proposed development would not give rise to unacceptable effects upon residential amenity or have any significant adverse cumulative impact effects. Nevertheless the absence of comments from the applicant on the now adopted local development plan limits my assessment of the applicant's case made on the policy context of the application. I can attach little weight to the observations made on the earlier policies, which are now no longer applicable.

#### *The effects of the proposal on the historic environment*

4.7 I have carefully studied the applicant's cultural heritage assessment. To the applicant the proposal would improve the energy efficiency of the listed building in line with former local development plan policy 27B 'Listed Buildings', repeated in the adopted plan. Mitigation measures, extending to improving public access to the interior of the building, and a local archaeological fund, would be made available.

4.8 The applicant has assessed the Aviva building against the listing criteria set out by HES. The applicant openly notes that HES consider it is among the finest examples of late 20<sup>th</sup> century office architecture in Scotland, winning a number of awards on its completion in 1983; it presents a synthesis of late-modernist design ideas and has structural solutions on a particularly vast scale and to a high material specification with exacting attention to detail.

4.9 To the applicant the key aspects of the building's setting, taken from the HES listing documentation, are the architectural composition and its landscaped setting, expressed in terms of its hillside location and 'ground-scraping' design which makes an immediate visual impression, whilst simultaneously acknowledging the existing skyline. The arrangement of modular blocks within the grid plan contribute to the "camouflaged" nature of the site when viewed from high ground within the city. Its hillside location, providing panoramic views over the city, contributes to the building's sense of place and its corporate identity.

4.10 At paragraph 6.6.35 of Volume 2 of the applicant's environmental statement it is unequivocally concluded that the turbine would be a prominent feature in south-facing views of the building. It would disrupt the architectural composition that exists between the building, the terraced hillside and the tree-studded skyline. This, to the applicant, would be most clearly demonstrated in the 'fracturing' of the skyline, with the turbine being a distracting feature located immediately adjacent to and oversailing the listed building, and

competing visually with it. Visual change would be evident in south and southeast-facing views that contribute to the cultural significance of the Aviva Building, resulting in an appreciable but partial loss of the asset's cultural significance. It is noted that the proximity of the proposed turbine to the Aviva building would constitute an element of visual prominence and distraction to the architectural composition of the building and its landscaped surroundings. This would be an effect of 'medium adverse magnitude' and moderate significance and, in EIA terms, would be considered to be a significant effect.

4.11 Overall, the applicant's cultural assessment identifies an effect of 'moderate significance' on the category A listed Aviva building, for the 25 year lifetime of the proposed development. It is submitted that this effect relates solely to impact of the turbine upon the setting of the building and would be discernible in close-range views within the Aviva site and from the high ground to the northwest. The architectural design of the building, together with its interior spaces and finishes, would, it is submitted, be unaffected by this effect which relates solely to its setting.

#### *Summary of the applicant's case*

4.12 As set out in the 'Notice of Review' the applicant agrees that there is potential for the proposed development to affect the setting of the listed building. It is argued however that this has to be balanced against the benefits of the proposed development which include improving the energy efficiency of the building and allowing the building to continue to be a fit for purpose office space in the twenty first century. This effect of the turbine requires to be balanced with the proposal's wider benefits in terms of tackling climate change and supporting the local economy. The localised affects would be offset by the mitigation measures put forward by the applicant and the improvements to energy efficiency of the building. It is submitted that if the building is to retained for future commercial office space a transition to low carbon energy should be supported.

#### **The position of Perth and Kinross Council**

4.13 As I have set out in chapter 1 of this report under the council's scheme of delegation the planning application was initially refused planning permission by the council's appointed officer on 17 January 2019. The council's LRB met on 20 August 2019 to review the January 2019 decision. As fully described in the council's 'Prospective Decision Notice' the council's LRB, by a majority decision, was minded to grant planning permission for the erection of the wind turbine and ancillary equipment, subject to some 15 conditions, but that the application was to be referred to Scottish Ministers because of the objection from Historic Environment Scotland.

#### **The position of Historic Environment Scotland (HES)**

##### *Background*

4.14 Historic Environment Scotland (HES) objects to the application because the proposed wind turbine would have a significant adverse impact on the setting of the Aviva building, listed as category in 2017. To HES the proposal raises issues of national interest and is contrary to paragraph 141 of SPP. HES were consulted during the pre-application stage of the proposal, and during the scoping of the environmental statement. The likely significant impact of the proposal on the setting of the Aviva building was then highlighted, and HES notes that the proposal as submitted is of the same dimensions as discussed at

this earlier stage. The environmental statement sets out several cultural heritage interests around the south-western part of Perth and HES, whose key interest is the Aviva building, is satisfied that a comprehensive cultural heritage assessment has been carried out. HES notes the applicant's conclusion that the wind turbine would have a moderate adverse significance on the setting Aviva building, a classification that is significant in EIA terms.

#### *The cultural importance of the Aviva building*

4.15 To HES the Aviva building is one of Scotland's most outstanding commercial buildings of the 20th century and is among a small number of buildings of this relatively late date to have been listed. In its understanding of the approach to the design of the building its landscaped grounds carefully considered their interconnected visual impact, and placed very significant emphasis on factors such as the relationship to the skyline, and a desire to produce a building with both a striking visual architectural impact when viewed at close quarters and a degree of camouflage at a landscape scale. The strong horizontality and absence of any significant vertical features are key to this effect and form part of the building's special interest. How the building is seen both from within the site and further afield therefore makes an important contribution to its understanding and appreciation.

4.16 Whilst HES is less concerned about the impact of the turbine when seen from the approach to the building from the south, the key issue is the impact that the turbine would have on the experience and appreciation of the building from within the site; it would work against the horizontality and the building's carefully conceived relationship with the surrounding topography. The size and location of the wind turbine would, to HES, potentially lead to it becoming the dominating element in the overall composition and redefine its focus. Given the significance of the Aviva building this is not considered to be acceptable and mitigation could be afforded by relocating the turbine a relatively short distance.

#### *The effect of the wind turbine on the Aviva building*

4.17 To HES the approach to the design of the listed building and its landscaped grounds has carefully considered their interconnected visual impact. This approach has placed significant emphasis on factors such as the relationship to the skyline, and a desire to produce a building with both a striking visual architectural impact when viewed at close quarters, and a degree of camouflage at a landscape scale. Although panoramic views from within the building would be largely unaffected, HES is of the view that the impact of the turbine on the listed building is as described by the applicant in the environmental statement in paragraphs 6.6.35 and 6.6.36. The applicant's paragraph 6.6.35 acknowledges that *"the proposed wind turbine would be a prominent feature in these same south-facing views, disrupting the architectural composition that exists between the 'ground-scraping' building, the terraced hillside and the tree-studded skyline. The effect would be most clearly demonstrated in the fracturing of the skyline, with the proposed wind turbine as a distracting feature, located immediately adjacent to or oversailing the listed building and competing visually with it."*

4.18 Additionally HES point to paragraph 6.6.36 which recognises that *"Visual change would be evident in south and southeast-facing views that contribute to the cultural significance of the Aviva Building, resulting in an appreciable but partial loss of the asset's cultural significance. The proximity of the proposed turbine to the asset would constitute an*



*element of visual prominence and distraction to the architectural composition of the building and its landscaped surroundings.”*

### *Summary of the case of HES*

4.19 The key issue to HES is the impact that the proposed turbine would have on the experience and appreciation of the Aviva building from within the site. HES agrees with the assessment in the EIA report that the turbine would distract from the building and compete with it. This is particularly problematic because it would work against the established strong horizontality and the carefully conceived relationship with the surrounding topography. While HES welcomes the applicant’s mitigation proposals it is considered that this does not address the significant impact that is predicted on the setting of the listed building. The mitigation only offsets the effect of the proposed development, rather than avoid or reduce it. HES object to the application because it is considered that the proposed wind turbine would have a significant adverse impact on the setting of the nationally important category A-listed Aviva building. To HES the proposal raises issues of national interest and is contrary to paragraph 141 of SPP.

### **The position of Scottish Natural Heritage (SNH).**

4.20 Scottish Natural Heritage is a statutory consultee on the planning application and environmental statement. SNH has concluded that there are likely to be significant landscape and visual effects on the residents and visitors to Perth from within the city, its surroundings and from the major tourist routes running past the city. SNH notes that the applicant’s Landscape and Visual Impact Assessment states that ‘the turbine would be fully screened from the majority of the Perth urban area within 500m of the proposed turbine’. However this does not fully capture the repeated open and unrestricted views of the turbine that would be had by residents and visitors as they move in and around the city. To SNH it is surprising that the assessment concludes that there would be no significant landscape and visual effects given the turbine’s elevated location, the large number of receptors comprising visitors and residents within 5 kilometres of the turbine and the A9, A90 and M90 major tourist routes close the city.

4.21 The submitted visualisations contained within the environmental statement indicate that when seen in open, unrestricted views the proposed turbine would likely be an uncharacteristic and prominent feature resulting in a major change to views in and across the Perth area. Located on the edge of the ‘bowl’ it could be the most visible tall structure in the city area. It would be a new, large-scale element in important views towards and across the city and moving blades would exacerbate this effect; it would be a distinctive feature that would draw the viewer’s eye and it would likely become a major orientating feature in the area.

4.22 SNH agree with the conclusions of the Environmental Statement, that it does not affect protected sites or species.

### **Other consultee responses**

4.23 Scottish Water has no objections to the proposal.

4.24 Scottish Environment Protection Agency does not object, but wishes to see the imposition of conditions to protect groundwater and surface water.

4.25 Transport Scotland do not object, subject to the imposition of conditions if the development were to be granted planning permission.

4.26. The Ministry of Defence have safeguarding concerns which relate to the potential of turbines to create a physical obstruction to air traffic movements and cause interference to air traffic control and air defence radar installations. Accordingly if planning permission is granted for the turbine it would require to be fitted with MOD accredited aviation safety lighting.

4.27 NATS Safeguarding has no objection to the proposal from an airport safeguarding perspective.

4.28 Perth and Kinross Heritage Trust advise that no archaeological mitigation is required.

### **Representations by interested parties**

4.29 I have noted the publicity and media coverage given to the proposal in 2018 as set out in Appendix 4.2 of the Environmental Statement. From survey results around 75% of respondents were either strongly or reasonably supportive of the proposed turbine. I have studied the representations that were received from members of the public on the planning application. It is clear to me that the proposal was given wide coverage before the planning application was submitted. Against that background I note from the council's delegated report that only a limited 12 representations were received.

4.30 Of these 12 representations have been received on the proposal, seven of those support the development and 5 oppose it. Persons opposing the proposal point to the negative effect that the wind turbine, described as an 'immense structure' would have on the 'architectural excellence' of the Aviva building and the rural setting of Perth. It would be out of character with the appearance of the surrounding area, having an unacceptable visual impact for residents and visitors. The turbine could also give rise to noise in nearby residential areas and cause safety concerns.

4.31 Support is also given by representees, who are in favour of the proposal for environmental reasons and who support the intentions of the applicant.

## CHAPTER 5 : THE REPORTER'S CONCLUSIONS

### *Background*

5.1 The planning application requires to be determined under the Town and Country Planning (Scotland) Act 1997 (as amended) (the 1997 Planning Act). Scottish Ministers must also exercise their decision making powers in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1997 (the 1997 Listed Buildings Act).

5.2 The wider Aviva site and the category A Aviva building are particularly important landmark features within Perth and continue to accommodate the city's long tradition with the insurance industry. Having regard to the development plan the principal issue in assessing this planning application is whether the proposal would adversely affect the setting of the Aviva building. It is also necessary to determine whether the proposal would give rise to an adverse effect on the residential amenity of persons living in its vicinity. Thirdly it is necessary to assess the wider impact that the proposed turbine would have on the landscape and ecology in the southwestern part of Perth, and whether there are any other related environmental issues that could not otherwise be satisfactorily regulated by the imposition of planning conditions. If adverse environmental effects are identified, it is necessary to determine whether the renewable energy benefits that would accrue and the proposed mitigation measures would offset any adverse effect.

5.3 Other important material considerations in the determination of the planning application are SPP, and the suite of policy and guidance prepared by HES, referred to in Chapter 3 and specifically the policies relevant to this application contained in Historic Environment Policy for Scotland that I set out from paragraph 3.19.

### *The effect of the proposal on the setting of the category A listed building.*

5.4 To aid and inform my assessment of the proposal against policies in the local development plan, SPP and those of HES I have taken into account the architectural and historic interest of the Aviva building, as set out in the 'Statement of Special Interest' provided by HES. I have also had particular regard to the Historic Environment Policy for Scotland (2019) and, significantly, the HES publication 'Managing Change in the Historic Environment; Setting' (2016).

5.5 On my accompanied and unaccompanied site inspections, and aided by the applicant's visualisations, I paid special attention to the effects of views of the turbine that would arise if planning permission is granted and, in particular, its proximity to the Aviva building. When viewed from the rising ground north of the A93 the turbine would be seen from an extensive number of receptors. Particularly open views to the site are afforded from this rising ground, as shown in the applicant's Viewpoint 5 from Oakbank Crescent. From this part of Perth, around Burghmuir, Cherrybank and in the vicinity of Perth Academy and Viewlands Primary School panoramic south facing views would afford the observer a clear view of the turbine. Other key views of the site of the turbine are Viewpoint 1 from the approach to the building and from the A93, not included as a viewpoint, to the north of the site.

5.6 I have analysed the setting of the listed building and the land that surrounds it in the context of policy HEP1. I conclude that the cotemporary, late-modernist architectural theory inherent in the building's design is self-apparent. In particular its stepped, terraced and horizontal appearance, augmented by the maturing roof top landscaping is very visible from

the north. Indeed during the summer period the harder finishes of the external walls are augmented by the highly successful display of attractive and maturing vegetation that contrasts, but compliments, the geometric shape of the building. The building has a very substantial floor area and this terraced design has meant that it does not punctuate or otherwise disrupt the skyline. There is no doubt in my mind the listed building sits particularly comfortably within the topography of the north-facing slope. From the north the building is seen framed by maturing vegetation, that to the east forming a welcome buffer between the more utilitarian design of the former sports building. The composition and sense of enclosure formed by this landscape framework, set along the ridgeline behind the building, compliments the maturing landscaping on the building's terraces.

5.7 A particular attractive and integral setting for the listed building is thus provided. The setting frames the horizontal design lines of the building, and does not detract from an appreciation of its design ethos. Of particular importance is the 'ziggurat' design which respects the skyline but makes a very clear and distinctive visual impression to the observer.

5.8 By way of contrast the potential impact of the rotating and vertical form of the proposed turbine would be diametrically opposed to the horizontal emphasis of the horizontal built form of the listed building. The very tall vertical moving structure would, in its entirety, dominate the skyline east of the building. It would undermine the very qualities that are an integral part of the design philosophy of the Aviva building. It would disrupt the flow of horizontal lines of the building which, as evidenced in Viewpoint 1, would dominate the view southeast from the B9112.

5.9 Whist views of the turbine would not be seen from within the Aviva building, those on the building's more eastern terraces would have clear uninterrupted view of the structure.

5.10 The applicant has offered, as mitigation measures, to promote greater public access to the interior of the building for those interested to appreciate the internal architectural features, and to establish a local trust to assist in local archaeological investigations. Both measures are to be appreciated, but they would not mitigate the detrimental effect the proposal would have on the setting of the listed building.

## **The development plan**

### *The local development plan vision*

5.11 The local development plan contains supporting text and associated policies that support the council's vision of Perth and Kinross as a successful and sustainable place, a low carbon place, a natural, resilient place and a connected place. The plan acknowledges the role of environment and heritage in creating successful places. The plan sees climate change is a real threat to the environment, and that the planning system has a crucial role in the delivery of new renewable energy resources. Policies within the plan seek to ensure that development and land uses address climate change, while protecting the special character of the area.

5.12 Policy 1A and Policy 1B 'Placemaking' require that development must contribute to the quality of the surrounding built and natural environment. It must respect site topography and surrounding landmarks, and skylines. I set out above my judgment on the adverse impact that the proposal would have on the quality of the surrounding built environment and

specifically the setting of the listed building and I find that it would be contrary to policy 1A 'Placemaking' and policy 1B 'Placemaking'.

5.13 Policy 7A 'Employment and Mixed-Use Areas' relates to business and industrial uses and any development must be compatible with surrounding land uses. I attach weight to the views of the council's regulatory services manager who has confirmed that, subject to the imposition of appropriate planning conditions, the development would not give rise to harm to residential amenity. I have no evidence before me that the proposal would be contrary to policy 7A.

5.14 Policy 27A 'Listed Buildings' gives encouragement to proposals that improve the energy efficiency of listed buildings, providing that improvements do not have a significant detrimental impact on the special architectural or historic interest of the building. The applicant's understandable and laudable aspiration to maximise the generation of renewable energy from the site, which would become a worldwide exemplar for the Aviva Group, would be a small but not insignificant contribution that would accord with the Scottish Governments' renewable energy targets.

5.15 The applicant agrees that there is potential for the proposed development to affect the setting of the listed Aviva building, however to the applicant this has to be balanced against the benefits of the proposed development which include improving the energy efficiency of the building and allowing the building to continue to be a fit for purpose office space in the twenty first century. I have no evidence before me that leads me to the conclusion that the continued presence of Aviva in Perth is dependent on planning permission for the turbine being granted.

5.16 I have set out above why I judge that there is tension between the proposal and the historic environment and cultural heritage. I therefore conclude that the proposal is contrary to policy 27A 'Listed Buildings'.

5.17 Policy 33A 'New Proposals for Renewable and Low Carbon Energy' sets out the support for new proposals, subject to a range of factors being taken into account including the impact on the historic environment and cultural heritage.

5.18 There are benefits to be accrued from the installation of the turbine. It would provide an additional 800-900kW of installed renewable capacity in Scotland. The proposed turbine would offset some 804 tonnes of additional atmospheric carbon dioxide, 18 tonnes of sulphur dioxide and 5 tonnes of nitrous oxide each year. It would generate as much electricity as is used by approximately 481 local homes. I have studied the applicant's 'Perth Energy Journey'. It is a laudable and notable objective that Aviva, one of Perth's largest employers, takes its responsibilities for climate change very seriously and I note that Aviva want to do everything possible to reduce global greenhouse gas emissions. Aviva began purchasing electricity from renewable sources for their UK estates in 2004 and has reduced its worldwide carbon emissions by 53% since 2010. Aviva strongly believe that where it is feasible to produce green energy on their sites they should be reinvesting to make the Perth site as economically and environmentally sustainable as possible for the future. This achievement is self-evident from the extensive installation of the array of solar panels affixed to the car park area south of the listed building, and which did not attract any objection from the council or HES.

5.19 When assessed against the criteria set out in policy 33A, I conclude that the proposal would have no adverse impacts on biodiversity, ground quality and natural

heritage, the water environment nor, suitably regulated, residential amenity. However, as I set out above, I conclude that the proposal would have an adverse impact on the setting of the category A listed Aviva building, contrary to policy 33A .

5.20 Policy 33D: Spatial Framework for Wind Energy identifies the site lying within 'Group 2'. Although 'Group 2' of the framework excludes listed buildings from the range of environmental designations, it affords 'significant protection' to community separation in the context of the consideration of visual impact.

5.21 During my site inspections I noted the extensive residential development around the site, including the longer established area north of the A93 at Burghmuir and that at Craigie, in addition to the more recently constructed housing around Cherrybank Gardens and north of the M90. I am satisfied that any impacts of shadow flicker and noise on these residential properties can be satisfactorily regulated by planning conditions if the development were to proceed. However in assessing the proposal in the context of community separation policy 33D I am mindful of the observations of SNH which conclude that the proposal would have significant landscape and visual effects on the residents and visitors to Perth from within the city and its surroundings. I note that the extensive 'Group 2' designation around the site embraces all of the south western part of Perth and SNH points to the open and unrestricted views of the turbine as members of the community move around the city.

5.22 In terms of the consideration of the proposed turbines visual impact I conclude that the proposal would conflict with policy 33D because of the site's location within an area of significant protection that embraces community separation.

## **Material considerations**

### *Scottish Planning Policy*

5.23 SPP sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The historic environment as a key cultural and economic asset at paragraph 136. Policy principles at paragraph 137 requires the planning system to promote the care and protection of the designated historic environment. This includes individual assets, and their related settings, and its contribution to a sense of place. SPP is clear on the setting of a listed building; 'setting' may be related to the function or use of a place, or how it was intended to fit into the landscape, the view from it or how it is seen from surrounding areas. Policies on change to a listed building are set out at paragraph 141. Where planning permission is sought for development affecting a listed building, special regard must be given to the importance of preserving and enhancing its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which would affect its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from work that would adversely affect it or its setting.

5.24 SPP contains a framework for the development of a low carbon place. The site of the planning application would fall within 'Group 2', an area of significant protection on the basis of the need for separation from communities for reasons relating to visual impact. . Paragraph 169 sets out a range of criteria which includes impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker

landscape and visual impacts, impacts on the historic environment, including listed buildings and their settings.

5.25 I have set out above my judgement that the proposal would have a significant adverse effect on the setting of the Aviva building and that its 'Group 2' status is appropriate because of the proximity of the visual impact that would arise from sensitive receptors in the community.

5.26 Scottish Planning Policy is a material consideration in the determination of the appeal. SPP contains Scottish Ministers' priorities for the operation of the planning system and, in relation to the historic environment, it is clear that listed buildings should be protected from work that would adversely affect its setting. Overall I conclude that the proposal is contrary to the policy provisions aimed at protecting the historic environment, as set in Scottish Planning Policy.

### **The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**

5.27 Section 59 (1) of the Listed Buildings Act 1997 places a general duty as respects listed buildings in exercise of planning functions. Specifically, in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority or Scottish Ministers, as the case may be, shall have special regards to the desirability of preserving the building or its setting.

5.28 I have set out at paragraph 5.4 my findings on the impact of the proposal on the setting of the category A listed Aviva building. I have taken into account the objection to the proposal from HES and carried out my assessment in the context of evidence from HES and, in particular, 'Managing Change in the Historic Environment: Setting'. I am mindful of the benefits that would flow if the development would proceed. However I have concluded that the proposal would conflict with the local development plan and, in particular, Policy 27A 'Listed Buildings' and Policy 33 'New Proposals for Renewable and Low Carbon Energy'.

5.29 Having special regard to the desirability of preserving the setting of the Aviva building I conclude that the proposal would be contrary to the provisions of section 59(1) of the Listed Buildings Act 1997. I have found that the setting of the Aviva building is desirable to preserve, in accordance with section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland Act) 1997.

### **Overall Conclusion**

5.30 I arriving at my recommendation on the proposal I have set out the numerous positive benefits that the proposal would bring. There can be little doubt in the importance of the role that the insurance industry continues to play in the economic wellbeing of Perth. I am appreciative of the applicant's aspiration to provide 100% renewable electricity to its important Perth facility and I recognises that as such, the Perth site could become a worldwide exemplar for Aviva. Mindful of the proposal's extensive pre-application publicity there has been very little local opposition expressed. The local planning authority, Perth and Kinross Council, supports the proposal. Properly regulated I am satisfied that the proposal could be operated in such a manner so as not to cause adverse environmental effects on residential amenity or to the natural environment. It is clear to me that the proposal has benefits for the applicant.

5.31 Nevertheless, there is no doubt in my mind that the listed Aviva building merits its category A designation as a building of special architectural or historic interest. It is of national importance. The horizontal emphasis of the building's design, its unique rooftop landscaped terraces and its location built into the hillside without impacting upon the skyline allow this major building to be satisfactorily assimilated into this part of Perth. Although contributing to Scotland's targets in a national context, the scale of renewable energy that would be generated by a single turbine is more limited. Despite this, and when combined with the output from the nearby solar panels, the applicant's Perth facility could become a notable worldwide exemplar.

5.32 I have identified the competing national and local policies that encourage correctly sited developments for much needed renewable energy with the need to protect Scotland's cultural assets.

5.33 I have set out in my report how the protection of the setting of a listed building is echoed by numerous national and local planning policies. I have described how the recently adopted local development plan, the Scottish Government's Scottish Planning Policy and the suite of policy and guidance from Historic Environment Scotland all provide a policy framework against which the proposal must be assessed.

5.34 In conclusion I have assessed in detail the design philosophy of the Aviva building and noted its striking horizontal emphasis in its well maintained and mature landscaped setting. The visual impact of the rotating and vertical form of the very tall turbine would be diametrically opposed to the horizontal emphasis of the listed building. It would become the most imposing aspect of the building's setting. The proposed turbine would overwhelm the building and dominate its skyline setting. I judge it to be desirable to protect the setting of this nationally important category A listed building.

5.35 I therefore conclude, for the reasons set out above, that the proposed development is not consistent with the development plan and other material considerations also indicate that permission ought to be refused.



## **CHAPTER 6: REPORTER'S RECOMMENDATION**

6.1 I recommend that the application should be refused planning permission.

6.2 In the event that Ministers are nevertheless minded to grant planning permission, I recommend the attachment of the conditions listed in Appendix 3 to this Report.

*Chris Norman*  
Reporter

## **Appendix 1: List of Key Documents.**

Scottish Ministers' Direction

<http://www.dpea.scotland.gov.uk/Document.aspx?id=659939>

### **The applicant's submissions**

The planning application <http://www.dpea.scotland.gov.uk/Document.aspx?id=659814>

Location plan <http://www.dpea.scotland.gov.uk/Document.aspx?id=659816>

Proposed site plan <http://www.dpea.scotland.gov.uk/Document.aspx?id=659817>

Gravity foundation details <http://www.dpea.scotland.gov.uk/Document.aspx?id=659818>

Turbine elevation <http://www.dpea.scotland.gov.uk/Document.aspx?id=659819>

Review Statement <http://www.dpea.scotland.gov.uk/Document.aspx?id=659944>

Planning Policy Statement <http://www.dpea.scotland.gov.uk/Document.aspx?id=659923>

Design and Access Statement <http://www.dpea.scotland.gov.uk/Document.aspx?id=659879>

Environmental Statement non-technical summary

<http://www.dpea.scotland.gov.uk/Document.aspx?id=659921>

### **The council's submissions**

Minute of LRB Meeting 28 May 2019 <http://www.dpea.scotland.gov.uk/Document.aspx?id=659942>

Minute of LRB meeting 20 August 2019

<http://www.dpea.scotland.gov.uk/Document.aspx?id=659943>

Prospective Decision Notice <http://www.dpea.scotland.gov.uk/Document.aspx?id=659946>

Regulatory Services Manager <http://www.dpea.scotland.gov.uk/Document.aspx?id=659938>

### **Consultation responses**

Historic Environment Scotland: <http://www.dpea.scotland.gov.uk/Document.aspx?id=659824>

Scottish Natural Heritage: <http://www.dpea.scotland.gov.uk/Document.aspx?id=659829>

### **Key documents**

HES Managing Change in the Historic Environment: Setting

<http://www.dpea.scotland.gov.uk/Document.aspx?id=679776>

HES Listed Building Record

<http://www.dpea.scotland.gov.uk/Document.aspx?id=679770>

**Appendix 2: Parties who made a representation on the proposal.**

Richard Cockbain

Guy Hanlon

David Lawson

Dr. G M Lindsay

Thomas Kennedy

William Kynoch Parnell

Robert Sinclair

Rosie Stichell

Nicholas Trehane

Andrew Wallace

Scott Webster

### **Appendix 3: Recommended conditions in the event that planning permission is to be granted.**

#### The duration of the planning permission

1. Within 25 years of the date of this permission the turbine shall be decommissioned by the owner and within six months of the decommissioning the turbine and all associated plant and equipment shall be removed and the site returned to a neat and tidy condition.

*Reason – To ensure the turbine is removed from the site at the end of its operational life, and to protect the visual amenity of the area.*

#### The scope of the planning permission

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

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

#### The construction of the proposal

3. Development shall not commence until a detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and site specific construction method statements, has been submitted to, and approved in writing by, the council as planning authority in consultation with Scottish Environment Protection Agency (SEPA). Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP. For clarification, the CEMP shall include information to satisfy the matters referred to in the consultation response from SEPA and dated 1 November 2019.

*Reason – In the interest of proper site management in a manner that minimises potential adverse environmental impacts.*

4. Development shall not commence until a geotechnical investigation has been undertaken and the findings have been submitted to, and approved in writing by, the council as planning authority in consultation with SEPA.

*Reason – To ensure that the risk to the groundwater environment is fully assessed.*

#### Aviation safety

5. Prior to the commencement of the development, the developer shall notify the Ministry of Defence of the following: (a) the date of the commencement of the development and the date of completion of the development; (b) the maximum height of construction

equipment; and (c) the latitude and longitude of the turbine. The Ministry of Defence shall be notified of any changes to turbine positions caused by micro-siting within two weeks of the turbine being erected.

*Reason – In the interest of promoting aviation safety.*

6. Prior to the commencement of the development hereby approved, a scheme for aviation lighting for the wind turbine consisting of Ministry of Defence accredited 25 candela omni-directional red lighting or infra-red aviation lighting shall be submitted to, and approved in writing by, the council as planning authority in consultation with the Ministry of Defence. The turbine shall be erected with the agreed lighting installed and the lighting shall remain operational throughout the duration of the turbine being present on site. The turbine shall not be illuminated in any way, with the exception of any aviation lighting that has been agreed under this condition.

*Reason – In the interest of promoting and maintaining aviation safety.*

### Shadow flicker

7. Prior to the operation of the turbine a shadow flicker management plan shall be submitted to, and approved in writing by, the planning authority. Within the plan the applicant shall identify the range of residential properties that can be remotely monitored for a period of one year from the commissioning, and subsequent operation, of the turbine to study the effect that shadow flicker could have on residential amenity. The plan shall also include mitigation measures to ensure that shadow flicker can be mitigated to an acceptable level should justified complaints be received following the operation of the turbine and details of a practical procedure to remediate any shadow flicker that are capable of being implemented by the applicant in the event of a justified complaint being registered by the planning authority using mitigation measures detailed in the shadow flicker management plan.

*Reason – In the interests of residential amenity, to ensure that residents in the locality are not adversely affected by shadow flicker to a significant degree.*

### Noise

8. Noise emanating from the turbine during night time (as defined in ETSU-R-97 as 23:00 to 07:00 on all days) shall not exceed LA90, 10 mins 43dB(A) or the ETSU -R - 97 derived night hours noise limit of LA90, 10 mins +5 dB(A) above background whichever is the greater. In the event that audible tones are generated by the wind turbine, a 5dB(A) penalty for tonal noise shall be added to the measured noise level.

*Reason – In the interests of residential amenity, to ensure that residents in the locality are not adversely affected by noise to a significant degree.*

9. Noise emanating from the wind turbine at any other time than defined in condition 5 shall not exceed an L A90, 10 min of 35 dB at the nearest noise sensitive premises at wind speeds not exceeding 10m/s and measured at a height of 10m above ground at the wind turbine site, or the ETSU-R-97 derived 'quiet waking hours noise limit of LA90, 10 mins +5dB above background, whichever is greater. In the event that audible tones are

generated by the wind turbine, a 5dB (A) penalty for tonal noise shall be added to the measured noise levels.

*Reason – In the interests of residential amenity, to ensure that residents in the locality are not adversely affected by noise to a significant degree.*

10. Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind turbine operator shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise emissions from the wind turbine at the complainant's property in accordance with relevant guidance ETSU report for DTI – 'The Assessment and Rating of Noise from Wind Farms'. The written request from the planning authority shall set out the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component and any measures required to achieve sufficient noise mitigation.

*Reason – In the interests of residential amenity, to ensure that residents in the locality are not adversely affected by noise to a significant degree.*

#### Television etc. interference

11. In the event that the turbine affects radio, television and/or telephone devices and/or reception of these devices within a 20 kilometre radius from the boundary of the development site, the turbine shall be disconnected until the problem has been investigated and resolved.

*Reason – In order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been formally assessed.*

#### **Advisory notes**

1. The proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

*Reason – To maintain safety for both the trunk road traffic and the traffic moving to and from the development and to ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.*

2. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the trunk road authority before delivery commences.

*Reason – To minimise in interference with the safety and free flow of the traffic on the trunk road.*

