



MORAY LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR200
 - Application for review by Orenda Energy Solutions Ltd c/o Ms Adele Ellis, AE Associates against the decision of an Appointed Officer of Moray Council
 - Planning Application 17/01591/APP for the installation of an Orenda 49kw wind turbine (rotor diameter 18.9M) on land at Fieldhead, Newmill, Keith, Moray
 - Unaccompanied site inspection carried out by the MLRB on 23 April 2018
 - Date of decision notice: 9 May 2018
-

Decision

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to refuse the above noted application.

1. Preliminary

- 1.1 This Notice constitutes the formal decision of the MLRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 26 April 2018.
- 1.3 The MLRB was attended by Councillors D Gatt (Chair), M Macrae (Depute Chair, D Bremner, G Cowie and M McLean.

2. MLRB Consideration of Request for Review

- 2.1 A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application on the grounds that the proposal is contrary to policies PP1, ER1 and IMP1 of the Moray Local Development Plan 2015 and the Council's Moray Onshore Wind Energy Guidance (MOWE) 2017 and Moray Wind Energy Landscape Capacity Study (MWELCS) 2017 for the following reasons:
 - (i) The proposed wind turbine, by reason of its height and exposed open position within the central area of a field, with no adjacent landform or

features to mitigate its scale and impact would appear as an unduly prominent feature in the landscape. As such, the proposal would fail to integrate sensitively with the landscape and would cause unacceptable adverse visual and landscape character impacts to the detriment of the landscape.

- (ii) The MWELCS outlines a number of constraints which affect this particular Landscape Character Type when assessing wind turbine proposals; these include amongst other cumulative effects with larger turbines and the potential cumulative landscape and visual effects associated with multiple developments that could exacerbate visual clutter around Keith. The MWELCS (at Appendix D) provided further guidance, highlighting the visual clutter effects that occur when different types of wind turbine are erected across the landscape with differing styles, sizes of structures and speeds of blade movement. The introduction of the proposed turbine at this location close to the A96 corridor where, in addition to existing power lines and pylons, there are already a number of consented wind farms and turbines within the vicinity of the site of varying type and size would lead to unacceptable cumulative visual impacts and clutter which would be detrimental to the character of the landscape and surrounding area, contrary to policy PP1, ER1, IMP1, MOWE and MWELCS guidance.
- 2.2 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
 - 2.3 With regard to the accompanied site inspection carried out on 23 April 2018, the Chair stated that all members of the MLRB with the exception of Councillor Ross, were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicants grounds for review.
 - 2.4 In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, both the Planning and Legal Advisers advised that they had nothing to raise at this time.
 - 2.5 The Chair then asked the MLRB if they had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
 - 2.6 The Chair, having had the opportunity to visit the site and consider the Applicant's grounds for review, stated that he agreed with the opinion of the Appointed Officer in that the proposal is contrary to policies PP1, ER1 and IMP1 of the Moray Local Development Plan 2015 and the Council's Moray Onshore Wind Energy Guidance (MOWE) 2017 and Moray Wind Energy Landscape Capacity Study (MWELCS) 2017 for the detailed reasons given by the Appointed Officer and moved that the appeal be refused on those grounds.

2.7 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR200 and uphold the original decision of the Appointed Officer to refuse planning permission in respect of planning application 17/01591/APP.

Mrs Aileen Scott
Legal Services Manager (Property and Contracts)
Legal Adviser to the MLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to Applicant on determination by the Planning Authority of an application following a review conducted under Section 43A(8)

Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

1. If the Applicant is aggrieved by the decision of the Planning Authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the Applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.