

Myreton Additional Wind Turbines

Notice of Review Statement

1. Overview

A planning application for two 800kW wind turbines, in addition to an already consented 800kW wind turbine at Myreton, Keith, Moray has been refused under a decision by delegated powers within Moray Council.

2. Application Timing

Planning Application Submitted	06/02/2009
Received and Stamped	09/02/2009
Planning Application Registered	16/02/2009
1 st Decision Due Date	13/04/2009

By the 15/04/2009, Jim Martin, the planning case officer dealing with the case at the time had not had a chance to begin reviewing the application. Following a telephone call Mr Martin agreed to request an extension to the decision date by 2 months until the 13/06/2009. Seren Energy agreed to this.

Following several phone calls and e mails to chase up the progress of the application, it was apparent that again very little work relating to the application had been undertaken. On the 30/06/2009 Jim Martin was contacted again and asked to provide an update on the progress of the planning application. A request was also made by Mr Martin for an extension of the planning application decision date until August 2009. The extension agreements can be seen in Appendix 6 on the accompanying CD.

On the 13/07/2009 a phone call was received from Richard Smith, another planning officer, explaining that he had taken over the case several weeks earlier and he was the new planning case officer. Richard Smith then requested an extension of the time to consider the application until the 30/09/2009. He also requested that a Cumulative Impact Assessment be undertaken which can be seen in Appendix 3. This request was made approximately 5 months after the date the planning application was registered.

On the 19/10/2009 a letter was received from Richard Smith requesting an additional extension of the planning application decision date until the 31/10/2009. This was to 'allow time for officers handling report to be completed and considered under the terms of the Councils delegation scheme'.

Officers report and decision notice passed to admin	30/11/09
Refusal of Planning Permission – Date of Notice	10/12/2009
Seren Energy Receiving Notice	10/01/2010

3. Issues Associated with Application Timing

Between the 16th February and the 30th of June 2009, it seems that very little work was done on the application. On the 13th July 2009, a phone call was received from Richard Smith explaining that he had been assigned the application a few weeks earlier and was now the new Planning Case Officer. At this point a request for a Cumulative Impact Assessment was made.

If the planning application had been issued to Richard Smith when it was first registered, rather than staying with Jim Martin who was too busy to begin reviewing it properly, this request for the Cumulative Impact Assessment would have been made nearly 5 months earlier, long before the application for the 2 larger 2MW wind turbines at Nethertown were applied for, which were registered on the 15th June 2009. Cumulative Impact was one of the 3 key arguments in the 'schedule of reasons for refusal'. Had the application been decided in a timely manner, cumulative impact with the Nethertown scheme would not have been considered an issue. Cumulative Impact Assessment with the larger Nethertown scheme is not therefore considered reasonable grounds for refusal.

4. Schedule of Reasons for Refusal

The refusal letter received from the Moray Council on the 8th January, details their reasons for refusal. These are addressed below.

The refusal letter was dated 10th December 2009 but was not received until the 8th January 2010 providing less time for the Notice of Review to be complied. A period of three months should be provided but due to the late response by the Moray Council, only two months were available for the agent to submit the notice of review.. The Schedule of Reasons for Refusal and the Refusal Notice Postage Date can be seen in Appendix 11.

i) Proposal does not fall within one of the Preferred Search Areas

a) Elevated Location

This paragraph numbered 1, presented in the Refusal of Planning Permission letter in Appendix 11, initially states that the proposal is to erect the two wind turbines in a 'prominent elevated location'.

The locations for the additional two wind turbines were carefully selected, taking into account the location of the consented turbine, which itself was sited to avoid being in a prominent elevated location. The process by which the turbine locations were chosen is described below.

When planning permission for the consented turbine was initially applied for, the proposed location was very close to the top of Lurg Hill. The planning officer at the time (Jim Martin) came back with the suggestion that it should be moved further down the hill, to a more visually sensitive location. This advice was taken and a compromise was struck between visual impact and yield of the wind turbine. An amendment to the initial planning application (Ref: 07/01102/FUL) was made to relocate the turbine. The turbine was then consented at its final, less elevated and prominent location.

When locations for the two additional wind turbines were being selected, the initial advice from the planning authority offered during the application for the single wind turbine was taken into account. Although a large amount of land was available further up Lurg Hill at higher elevations, offering improved yield for the wind turbines, locations no higher than the original consented turbine were selected. Turbine 1 has been located on the same elevation as the consented turbine and Turbine 2 has been located at an elevation of approximately 20m further down the side of Lurg Hill towards the main road (B9018) in the floor of the valley. A location plan of the turbine can be seen in the additional planning information in Appendix 1.

b) Wind Energy Policy Guidance and Policy ER1

The first paragraph presented in the Refusal of Planning Permission letter also states that the proposed development does not fall within one of the Preferred Search Areas identified in the Wind Energy Policy Guidance for small wind farms and as such is therefore a departure to Policy ER1.

The Wind Energy Policy Guidance Review for Small Wind Farms (up to 10 turbines) in Moray shows a map dividing the county into two clear areas. This can be seen in Appendix 12. The red areas are the 'Preferred Areas for Wind Farm Development' and the cream areas are the 'Unlikely areas for Wind Farm Development'. This project falls within a cream area and is therefore considered unlikely for small wind farm development. In this case a small wind farm is defined as one with up to ten turbines.

By following the methodology that was used as a principal reason for refusal of this project, only the red areas on this map, which make up approximately 5 – 6% of the land area of the county, will be available for small wind energy developments. Since policy ER1 states that a single wind turbine can be defined as a 'wind farm', any wind energy development involving one or more wind turbines could be turned down on these grounds leaving only a fraction of the county of Moray open for small wind energy developments.

Two other Wind Energy Policy Guidance Review maps for Moray have also been produced for medium wind farms (10 – 25 turbines) and for large wind farms (over 25 turbines). These can also be seen in Appendix 12. Since the areas marked on these maps are in the same areas of the county as the areas for marked for small wind farms, it is highly likely that the larger multinational wind energy companies have already approached the land owners of the land marked, with the intention of constructing much larger more profitable wind farms utilizing much larger individual turbines. These areas will therefore already either contain, or have plans in place to install a reasonable amount of wind farms, and any more developments will lead to unacceptable levels of cumulative impact. In the long run this will lead to only large, multi turbine wind farms being constructed in Moray, leaving a huge potential resource, that smaller well placed wind farms could make the most of, virtually untouched.

It is accepted that larger wind farms containing 5 or more wind turbines, especially wind farms using the very largest variety of wind turbines available, will need to be located in areas where they can be acceptably accommodated. Smaller wind farms however should be considered upon their individual merits and should not be essentially excluded from construction outside the Preferred Search Areas (PSA's). If this methodology is used, only a very limited number of land owners will be able to benefit from using their land for wind energy developments and a large resource of renewable energy will be wasted.

This will also mean that if, for example, a local land owner is struggling financially in the farming business and wishes to diversify into wind power to help with financial security, they will not be able to, as permission for any smaller wind energy projects, even if designed and located sensitively, will not be granted outside the PSA's. This will essentially prevent the development of a potentially highly beneficial local wind energy industry, and place all the power in the hands of the larger multinational wind energy firms, many of which are based outside of Scotland and the UK. Any profits that these companies will make will be removed from Moray and into the pockets of the directors and shareholders. Smaller wind energy projects owned locally however, would retain any profits generated, within the local economy and assist farmers and land owners in owning and running profitable businesses.

Another consideration to make regarding the PSA's, apart from the fact that they cover such a small area of Moray, is the way in which they have been designated. There are two items to consider here.

The first is that they make no mention of the size of the wind turbines involved in a wind farm. This can be considered an important factor due to the range of 'commercial scale' wind turbines available. The turbines proposed for the Myreton wind farm extension in question were purposely selected as the smallest commercial scale machines available on the market. At 800kW, they are less than half the generation capacity of the much larger 2MW turbines typically used in wind farms by larger developers. With tower heights of 55 and 65m and tip heights of 79 and 89m, the proposed wind turbines are also only approximately 2/3 of the size of the larger turbines which typically use 80 or 90m towers and have tip heights of 120 – 130m. The intention of proposing the smaller scale turbines for this scheme was to reduce the overall impact of the scheme on the surrounding area which can be seen in the photomontages in the original planning document between pages 28 and 40. This document is provided in Appendix 1.

The second is the way in which the size of a small wind farm is described in the Wind Energy Policy Guidance Review maps as 'up to 10 turbines'. This essentially puts any wind farms of between 1 and 10 turbines in the same bracket which is considered unreasonable. For example, by comparing a 10 wind turbine wind farm of 2MW turbines to the proposed wind farm of 3, 800kW wind turbines, a clear difference will certainly be apparent. A smaller wind farm such as the proposed, could in many cases be accommodated into the local landscape acceptably, in locations where a 10 wind turbine 20MW wind farm could not be.

It is therefore considered unreasonable to refuse this project on the grounds that it is not located within one of the PSA's and is therefore a departure to policy ER1. With this as a term of refusal, a precedent is set for all other smaller scale wind farms in Moray, as they will be grouped in the same bracket as wind farms

of up to 10 turbines, and the size and scale of the individual wind turbines will not be considered, even if they have been chosen and located in such a way as to reduce their overall impact on the landscape as much as possible.

As Moray is located in the north of Scotland, which is one of the windiest countries in Europe, only allowing wind development within the PSA's will certainly not utilise the maximum potential of this abundant natural resource. It will also go against the councils own objective of contributing to the Scottish Executives target of providing 40% of Scotland's electricity from renewable resources.

It is therefore considered that this 3 wind turbine wind farm, which uses the smaller scale 'commercial size' wind turbines available on the market should be evaluated on its own individual merits and its location outside of the PSA's should be considered as being suitable for a development of this scale. If this reasoning can not be considered, then all small wind projects in Moray outside the PSA's will be turned down by the council, leaving the PSA's as very dense areas of wind development and also leaving most of the wind developments in Moray in the hands of the multinational wind energy companies, rather than in local ownership.

The refusal of this project on the grounds that 'it is not in a PSA and is therefore a departure to policy ER1' also goes against what is set out in SPP6. In the Development Planning section, paragraph 40, page 11, it states 'some planning authorities may have already progressed work that identifies broad areas of search for wind farms in their development plans. Such areas should provide a steer to developers on acceptable locations but their existence should not be used to rule out development elsewhere if it can be accommodated in a manner consistent with the approach set out in this SPP'.

It also states in paragraph 39, on page 11 that, 'policies should identify broad areas of search where projects for wind farms above 20MW will be supported...' and 'policies should include support for wider applications of medium and smaller scale renewable technologies'. The areas in the 'Wind Energy Policy Guidance Review for Small Wind Farms (up to 10 turbines) in Moray' can not be considered broad by any means and it seems there is little support for applications for medium scale renewable energy technologies.

SPP6 essentially contradicts the formation of Morays PSA's for small wind farms of 'up to 10 turbines'. The national policy, from the Scottish Executive supports search areas for projects of over 20MW, which is essentially 10 wind turbines. It then goes on to support medium and small scale developments such as this one and states that the existence of PSA's 'should not be used to rule out development elsewhere'.

c) Moray Structure Plan

The first paragraph in the 'Schedule of Reasons for Refusal' also mentions that by virtue of their scale and position, the proposed scheme would be contrary to policy MSP (Moray Structure Plan) 2(b) and 2(l).

Policy MSP 2(b) supports the 'protection of the wider natural environment....from inappropriate development...'. The proposed two additional wind turbines would not be considered as inappropriate development as they have been sensitively located as explained in section (4,i,a) based on advice from the Moray Council. They are also small scale turbines in comparison to many of the wind turbines being proposed for new large wind farms and are located in a sparsely populated area of Moray with an excellent wind resource. They have been proposed for construction in a young conifer forest where minimal disruption to the land will occur and any trees that will need removing will be only a few years old.

The land has also been assessed from an ecology standpoint and nothing of importance was discovered. The full ecology report can be seen in Appendix 4. SNH's response states that 'SNH considers that the natural heritage interests affected by this proposal are of lesser importance and has no objections', Appendix 7. No objections were received from any of the statutory or non statutory consultee's, or any local people, which will be discussed in greater detail later in this statement. This scheme should not therefore be considered an inappropriate development.

Policy MSP 2(l) actually promotes the 'sensitive development of renewable energy'. It is considered that this small wind farm, of 3 turbines, each of which at 800kW are considerably smaller the usual 2MW turbines proposed for larger developments, in this location, part way down the side of Lurg Hill should be considered as a sensitive development. If it was a 10 turbine scheme of 2MW turbines then it could be considered a sensitive development, but a great deal of consideration has been taken into account when designing this scheme to reduce its impact on the surrounding area, including its effect on local residents and the visual impact.

As this development is in addition to an already consented wind turbine, the difference in visual impact between 3 turbines and 1 turbine will be much less than the difference between 1 turbine and no development. As Moray Council already granted planning consent for a single wind turbine, the location and the size of the wind turbine must have been considered acceptable for the site, and therefore the two additional turbines should fall within this same bracket.

d) Moray Local Plan

The first paragraph in the 'Schedule of Reasons for Refusal' also mentions that by virtue of their scale and position, the proposed scheme would be contrary to policy MLP (Moray Local Plan) IMP1.

When reading through the details of MLP IMP1, it becomes clear that this policy was not designed or written to relate to renewable energy developments such as the proposed two additional wind turbines. It is directed more at new building developments as it goes on to mention items such as 'adequate roads, public transport, cycling and footpath provisions must be available' or 'there must be adequate availability of social, educational, healthcare and community facilities'. It is therefore considered unreasonable to refuse this project on the grounds of this policy, especially as the single consented wind turbine, if judged on the contents of this policy, would not have been granted planning permission.

The reasons for refusal in relation to this policy were that the development was not considered to be in scale or character with the surrounding area nor integrated sensitively into the landscape. As mentioned previously, the scale and the location of the proposed additional wind turbines have been carefully considered so as to reduce the impact on the surrounding landscape. Also, with a single wind turbine already consented and soon to be constructed on the site, it is not considered that the addition of two further turbines will affect the character of the landscape a great deal more.

ii) Cumulative Impact

Following a request from the planning case officer, the cumulative impact of the proposed additional two wind turbines at Myreton was evaluated and the results were presented in a document entitled 'Cumulative Impact Assessment – For Two Additional Wind Turbines at Myreton, Keith, Moray'. This document is dated August 2009 and is included with this Notice of Review for consideration in Appendix 3.

The request for this additional information was considered justified although the timing of the request was not. As explained in section 3 of this statement, this request for the Cumulative Impact Assessment was made approximately 2 weeks after Richard Smith had been assigned Case Officer on the 30th June 2009. The request, made on the 13th July 2009, was therefore made approximately 5 months after the application had been registered and approximately 1 month after the deadline for the second decision date on the 13th June.

If the request for the Cumulative Impact Assessment (CIA) was made shortly after the application was registered, as it should have been; according to Scottish Planning Policy 6 (SPP6), Paragraph 51, page 14, the planning authority should not have requested that the Nethertown wind farm was included in the CIA. SPP6 states 'planning authorities should take into account of those projects in the vicinity that have been built, those which have permissions and those that are currently subject of valid but undetermined applications'. Therefore, if it were not for the delay of nearly five 5 months in the request for the CIA, the Nethertown project would not have been included in the CIA and it is unlikely that cumulative impact of the schemes would be considered an acceptable reason for refusal.

It could be considered that the project was purposely delayed until the registration of the Nethertown project on the 15th June, so that the cumulative impact of this scheme had to be considered.

Had the Myreton scheme been determined or the request for the CIA been made in a timely manner, before the registration of the Nethertown scheme, the Nethertown wind turbines would not have been included in the CIA and the final outcome of the assessment is likely to have been very different. Without the two Nethertown wind turbines, the proposed additional two turbines at Myreton would not have 'given rise to a cluttered appearance in the area' as suggested in the refusal note.

The cluttered appearance would have been reduced due to several factors. The first is that, due to the topography of the land, most of the good viewpoint locations which were agreed with the planning case officer were to the south of the site. The ideal locations were those from which all 4 wind developments could be seen. As can be seen on Page 8 of the CIA, these areas shown in

yellow in the ZVI for the nacelle are mainly to the south and south west of the development.

From these locations, the Myreton and the Aultmore wind farms can be seen on opposite sides of the valley. With approximately 3km between them, they are clearly distinguished as different wind farms and would not be considered visually obtrusive as can be seen in photomontage V7 or V10 in the CIA. These photomontages were selected as both wind farms can be seen from each and they give a view from the south west (V7) and the south east (V10).

When the Nethertown wind farm is incorporated into the picture, the gap between the Aultmore and Myreton wind farms is filled and this can give the illusion that all of the wind turbines make up one very large wind farm. Without the Nethertown wind turbines, a clear space between the wind farms would exist, disrupting the illusion of a very large wind farm and would improve the visual acceptability of the Myreton 3 wind turbine wind farm.

Another reason why the Nethertown wind turbines significantly add to the 'cluttered appearance' of the wind turbines in the area is their size. Although the wind turbines are located at lower elevations than the Myreton wind turbines, their larger rotor diameters give an unsettled appearance to the cluster of wind turbines created at Myreton. This can be clearly seen in photomontages V12(A), V13 and V21. The difference in rotor diameters gives a patchy, inconsistent view which could be considered unsightly.

The request for a CIA for this project was delayed by the planning office as explained earlier in this section and due to this delay it was necessary to include the Nethertown wind turbines in the assessment. Even if there had been no delay, the request for the inclusion of Nethertown into the CIA would still be considered unreasonable on its own grounds as each application should be made on first come first served basis. When this question was put to the planning case officer Richard Smith once the CIA had been submitted, he responded by saying that if it comes down to it, a first come first served basis is used.

This is also recommended as the correct method in SPP6. It states in Paragraph 51, page 14, that 'decisions should not be unreasonably delayed because other schemes in the area are at a less advanced stage in the consideration process and, in such circumstances, the weight that planning authorities should attach to undetermined applications should reflect their position in the application process'. The request for the inclusion of Nethertown in the CIA can therefore be seen to be unreasonable and by doing so, had a large influence on the outcome of the CIA and therefore this planning application.

It is therefore considered that the request to include the Nethertown wind turbines in the CIA was unreasonable and the assessment should have been

undertaken and presented with out the Nethertown turbines. This would have considerably reduced the cumulative visual impact.

The Nethertown scheme is currently still being determined by the LPA. However, the issues which were given as reasons for refusal for the Myreton scheme also apply to the Nethertown scheme. The likelihood of the larger Nethertown scheme being consented is therefore extremely unlikely, and this should be taken into account when assessing the cumulative impact.

Another important consideration to make when assessing cumulative impact is the wind projects that actually have consent. Currently the only two projects in the area with consent are Balnamoon for a single turbine and Myreton for a single turbine. The Balnamoon turbine is generating and the single Myreton wind turbine is due for installation in October 2009. The addition of 2 further turbines to the single Myreton wind turbine would not be considered to bring the level of cumulative impact in the area over an acceptable level, especially in relation to what has already been granted permission in the area.

The Aultmore wind farm is located on the northern and north western slopes of Old Fir Hill which is located on the opposite (western) side of the valley to the Myreton project. This wind farm was originally proposed as a 31 turbine, 62MW wind farm. Following a large amount of local objection, and following advice from landscape consultants, the proposal was resubmitted in 2007 as a 13 turbine 26MW wind farm. The decision for this project has still not been made and the granting of its consent is by no means certain. There is still a great deal of local opposition to this project. By contrast, this application for additional wind turbines at Myreton received no objections and received no local opposition.

Aultmore wind farms location on Old Fir Hill means that full views of the turbines from areas to the south (where the Myreton wind farm is most visible) are not predominant. As can be seen in many of the photomontages in the CIA, the views of the Aultmore wind turbines are often obstructed by landscape features and vegetation such as trees in the foreground meaning that only partial rotors or just blade tips are visible. Its location will therefore reduce the overall cumulative impact of the projects in the area.

Finally, by carefully studying the CIA, it can be clearly seen that even if all 4 wind farms in the area were granted planning permission, which is considered unlikely, their visibility in the surrounding area will not be wide spread. The most convenient method of seeing this is through the cumulative ZVI diagrams. The areas included in these maps are circular areas of 50km in diameter, surrounding the Myreton site. Using the map for the nacelles of the turbines on page 8 as an example, it can be clearly seen that the turbines will only be visible from a very small percentage of the land area surrounding the site and the areas where all 4 wind farms will be visible (yellow areas) is very limited indeed. Photomontages

were typically selected at locations where all four wind farms could be seen and therefore cumulative visual impact was likely to be greatest.

The only reasonably sized settlement located in a yellow area is the town of Keith. As can be seen in photomontage V7 on page 19 of the CIA, the views of the turbines from this location (just under 6km away) is not be considered dominating, and the cumulative affect of the wind farms is not considered to 'detrimentally affect the character of this part of the countryside to a detrimental degree' as stated in the refusal statement.

iii) Precedent

The third paragraph presented in the Refusal of Planning Permission letter states that 'approval of the application would create serious and undesirable precedent for further ad hoc applications to be submitted in the surrounding area, which would undermine the Councils strategic objectives for directing wind energy development to preferred search areas...'.

As extensively discussed in section (4,b) of this statement, it is considered unreasonable that small wind farms of below 5 wind turbines are not considered under their own merits, taking into account the size and scale of the individual wind turbines as well as their location and overall visual impact on the surrounding area.

In fact, by not even considering small wind developments, utilising smaller scale wind turbines (than those proposed for use in most large wind farms which are usually 2MW in size or more) outside the preferred search areas, will actually set a precedent in its own right. If this project is turned down on these grounds, a precedent will be set meaning no small wind farms of this type, owned locally or otherwise, will be consented across Moray outside the Preferred Search Areas.

This will prevent local landowners, farmers and cooperatives diversifying into wind power in one of the windiest counties in Europe, thus preventing local people from achieving financial security in an age where farming is becoming a less profitable business. It will also mean that the average size of the wind farms in the PSA's will be likely to increase to maximize the potential of the PSA's for the developers. This will lead to several issues, the first being that only multinational developers will have sufficient finances to develop these larger sites and any profits generated from the wind farms will leave Moray. It will also mean that certain areas in Moray will be overcrowded with wind farms and the vast majority of the county will not even be considered for small, locally owned, sensitively designed wind farms.

The concept of using precedent as a reason for refusal is also considered unreasonable, especially as the relevant renewable energy legislation elsewhere in the UK specifically prohibits precedent as an argument. In England, Planning Policy Statement 22: Renewable Energy (PPS22) states, on page 167 paragraph 39 that 'Each planning application should be considered on its own merits, and the argument that granting permission might lead to another application is not sufficient grounds for refusal'.

5. Correspondence with Planning Case Officer (Richard Smith) Leading up to the refusal of the Project.

Richard Smith first indicated that a Cumulative Impact Assessment (CIA) would be needed in an e mail sent on the 13th July, as has previously mentioned. This can be seen, labelled 1, in Appendix 10.

On the 23rd September 2009 an e mail was written to Richard Smith containing several questions relating to the project and the CIA. He responded on the 25th September and this correspondence can be seen in Appendix 10 labelled 2.

The CIA was completed and sent back to Richard Smith in August 2009 and a response from him was received on the 9th October. This was the first indication that the project may be refused and the contents of this letter were carefully studied and replied to in detail. The e mail from Richard Smith and the detailed response from Seren Energy can be found in Appendix 10 labelled 3 and 4 respectively.

Finally Richard Smiths reply to Seren Energy's response is included in Appendix 10, labelled 5.

6. Objections

An important aspect to take into account when considering this application is that not a single objection was received despite being put out for public consultation 3 times, rather than the usual single time.

It was first put out for public consultation in February 2009 when it was first registered. No objections were received.

It was next put out for public consultation in late June 2009 when Richard Smith has been reassigned the application from Jim Martin, the original planning case officer. No objections were received

Finally, it was again put out for public consultation in October 2009. Richard Smith was asked why it had gone out for the third time and responded by stating that this was on the advice of Development Plans it was because 'it lays outwith the Preferred Search Areas for wind development and is out of scale with it surroundings'. Again no objections were received.

The project did not need to and should not have gone out to public consultation more than once. The repeated occasions when this occurred made it seem like the council were desperately attempting to rouse opposition and objections from locals in the area which they failed to do. The fact that no objections were received represents the local attitude towards the project and seems to contradict its recommendation for refusal.

7. Planning Legislation

a) Moray Development Plan. Wind Energy Proposals in Moray – Supplementary Planning Guidance (SPG)

i) Proposal does not fall within a Preferred Search Area

This application site is located outside one of the PSA's for small wind farms (up to 10 turbines) in Moray, and with in an area classified as 'unlikely for wind farm development'. Section 3.2 of the SPG lists areas which are considered unsuitable for wind farm development. A list of these has been provided and their relevance to the project to Myreton has also been included.

Unlikely Area for Wind Farm Development	Relevance to Myreton and Approximate Distances from Myreton Site
Settlements with a 1km buffer around them.	No settlements within 1 km. Nearest settlement is Cornhill (8.5km) then Keith (9km).
Residential properties with a 1km buffer around them.	5 Houses within 1km. Myreton (involved in project), Nethertown, Over Windyhills, Croylet and Brambleburn. No objections received from any of these houses.
RAF bases	The nearest RAF bases are at Lossiemouth (30km) and Forres (43km).
Sites of Special Scientific Interest	Nearest SSSI is 4.8km away
Special protection Area	Nearest SPA is 15.8km away
Candidate Special Area of Conservation	Nearest is >50km away (none in Moray)
Designated Special Area of Conservation	Nearest is 9.7km away
Sand dunes	Nearest coastline is 10km away
Golf courses	Nearest is 9.7km away
Semi natural woodland	Nearest is 3km away
Ramsar sites	Nearest is 16km away
Countryside around town areas	Nearest is 9km away
National Scenic Areas	Nearest 60km away
Areas of Great landscape Value	Nearest is 10km away

The final category on the list was: Areas of low landscape potential for wind farms identified in the "Landscape Potential for Windfarms in North and East Highland and Moray" produced by Scottish Natural Heritage. Within this document there were two maps of relevance. These were:

Figure 5.17 (p38): Classification of landscape character sensitivity for a small turbine (<10 turbines) development.

This gives the Myreton site a category of "Low Sensitivity".

This can be found in Appendix 12, in Landscape Potential Windfarms in Moray Part 1A.

Figure 7.3 (p67): Landscape potential for small wind turbine developments.

This gives the Myreton site a category of “Moderate Potential”.

This can be found in Appendix 12, in Landscape Potential Windfarms in Moray Part 1C.

The only category on the entire list of ‘unlikely areas for wind farm development’ that the Myreton development does not conform to is the 5 houses that are within a 1km buffer of the site. One of these houses is financially involved in the project, and no objections have been received from the other 4. Modern wind turbine schemes typically use wind turbines of around 2MW, and it is likely that the buffer will have been chosen based on turbines of a 2MW scale. The Myreton turbines are significantly smaller at 800kW. It is therefore considered unreasonable that the project was refused on these grounds.

ii) Cumulative Impact

Section 4.10.2 of the SPG states that ‘development proposals should assess the cumulative landscape and visual impact of existing wind farms/turbines in the area, those with planning consent, those that are subject to an undetermined planning application and those that have had a formal scoping opinion’.

As has been stated before in this statement, if the request for the CIA was made in a timely manner, rather than being delayed for 4 and a half months, these guidelines suggest that the Nethertown turbines should be excluded from the CIA, as they would not have undergone a formal scoping opinion’.

As the Nethertown scheme is currently still being determined by the LPA. However, the issues which were given as reasons for refusal for the Myreton scheme also apply to the Nethertown scheme. The likelihood of the larger Nethertown scheme being consented is therefore extremely unlikely, and this should be taken into account when assessing the cumulative impact.

b) NPPG6 Renewable Energy Proposals Published in 2000

The National Planning Policy Guideline 6 – Renewable Energy Developments (NPPG6) contains the following statements supporting the development:

2. The Scottish Executive is committed to increasing the amount of renewable energy in Scotland.

12. Scotland possesses a large part of the UK potential for producing energy from wind.

13. It is expected that much of the new capacity needed by electricity suppliers to meet the Renewables Obligation (Scotland) will come from wind farms.

16. The Scottish Ministers wish to see the planning system play its full part by making positive provision for such developments by:

- facilitating and guiding renewable energy developments in up-to-date structure and local plans;*
- ensuring that development control decisions are taken efficiently, consistent with national and international climate change policy commitments and obligations; and*
- preventing the unnecessary sterilisation of renewable energy resources*

The PSA's for small wind farms in Moray have effectively sterilised over 90% of the county from the development of small scale, responsibly designed wind farms. This goes against the above statement in NPPG6.

while at the same time:

- meeting the international and national statutory obligations to protect designated areas, species and habitats of natural heritage interest and the historic environment from inappropriate forms of development; and*
- minimising the effects on local communities.*

This application is not located within or near any designated areas and the phase one habitat survey (Appendix 4) revealed no protected species or habitats of natural heritage interest on the site. No areas of historic environment or archaeological sites of interest were identified by Historic Scotland on or around the site.

The wind farm was designed and located in such as way as to reduce its effect on the local communities. The local community evidently felt that this was achieved as no objections were received.

18. Planning policies that rule out or place fundamental constraints on the development of all or specific types of renewable energy technologies will be inappropriate without sufficient reasoned justification.

The PSA's proposed for small wind farms in Moray place fundamental constraints on the development of small wind farms in over 90% of Moray. This goes against NPPG6.

23. Outwith internationally and nationally designated areas, other areas may with appropriate justification also be identified and protected in development plans. While these areas may be important locally, the level of protection will not be as high as that afforded internationally or nationally. In applying policies to these local designations, planning authorities should ensure that these are not such as to impose unreasonable restrictions on the ability to meet the overall requirement for renewable energy.

There is insufficient justification presented for the designation of 90% of Moray as areas 'unsuitable for small wind farms'. It is considered that the PSA's for small wind farms in Moray impose unreasonable restrictions on wind development in Moray.

47. When considering the spatial implications, the inclusion of a broad area of search may in some circumstances be helpful. Such an approach can provide a general guide, particularly in relation to wind energy developments, but the existence of such areas should not exclude development outwith these areas where they can be accommodated in a satisfactory manner.

The PSA's in Moray are not broad areas, in fact if anything they are undersized. In addition to this, a reason for refusal of this application was that the site did not fall within a PSA and was therefore a departure to policy ER1. NPPG6 states that development outwith these areas should be considered where they can be accommodated in a satisfactory manner, as is the case at Myreton.

c) Planning Advice Note 45 (PAN) “Renewable Energy Technologies”

Several of the policies contained within PAN 45 have been drawn upon for the purposes of this statement. These are contained within the Wind Power chapter and are entitled Siting in the Landscape and Cumulative Impact.

Sitting in the Landscape

72. Development that has been carefully sited and tied into the surrounding landscape will still be visible but the impact will be less than had this effort not been made and the development left less well related to its surroundings.

The Myreton development was moved from its original proposed location (of the single turbine) to a lower elevation in order to reduce visual impact on the surrounding area. The consented and proposed turbines were positioned in such a way that viewed from the south only limited portions of their rotors would break the horizon from many viewpoints. They were also located so that they followed the contours of Lurg Hill helping them blend into the landscape more easily.

73. The landscape and visual impact of wind turbines is influenced by:

- *number, size and layout of turbines*
- *how the turbines relate to the skyline*
- *design and colour;*
- *access tracks; and*
- *ancillary components like power lines and substations.*

The number and size of the wind turbines at Myreton have deliberately been kept low to reduce the impact of the scheme on the surrounding area. The turbines have also been positioned so that from the most visible areas to the south west, they appear to follow the skyline of Lurg Hill. This can be seen in photomontages V5, V6, V7, V8, V10 and V11 in the Additional Planning Information document in Appendix 1.

The turbines proposed at Myreton are manufactured by Enercon and have an elliptical nacelle. This gives them a more aesthetically pleasing look than the rectangular nacelle of most modern turbines. They are matt off white in colour, a colour that over the years has been the most successful and unobtrusive for wind turbines of this size.

The access tracks and ancillary components have been designed in such a way that they will present no significant change in appearance of the surrounding area. This can be seen in the construction method statement in Appendix 9 which Moray Council have confirmed they are happy with. This has been included with this Notice of Review and was not originally included with the

application as it was written to answer SEPA's requests as a planning condition for the single consented turbine, but it is also considered relevant for this review.

Cumulative Impact

91. In assessing cumulative effects, it is unreasonable to expect this to extend beyond schemes in the vicinity that have been built, those which have permissions and those that are currently the subject of undetermined applications.

As mentioned previously several times in this statement, due to the delay experienced with the application, by the time a Cumulative Impact Assessment was requested, the Nethertown application had been registered and therefore had to be included in the CIA, thus influencing the appearance of the Myreton project in the landscape. This is considered unreasonable, and the Nethertown wind turbines should not have been included as the delay was due to the LPA, but as a result the Myreton project was refused on the grounds of cumulative impact.

The Nethertown scheme is also currently still being determined by the LPA. However, the issues which were given as reasons for refusal for the Myreton scheme also apply to the Nethertown scheme. The likelihood of the larger Nethertown scheme being consented is therefore extremely unlikely, and this should be taken into account when assessing the cumulative impact.

c) Scottish Planning Policy (SPP) - Published on 4 February 2010 to replace SPP6

Due to the fact that this Planning Policy was published during the three month window for submitting this Notice of Review, the LPAs decision would have been based on this legislation, and much of the work undertaken in the review was applied to the old policy SPP6. The newer SPP is however the new standard and has therefore been commented upon. The paragraphs in italics are extracted from the SPP and in some cases, commented on.

182. The commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. Renewable energy generation will contribute to more secure and diverse energy supplies and support sustainable economic growth. The current target is for 50% of Scotland's electricity to be generated from renewable sources by 2020.

Scotland's renewable energy target has now increased from 40% to 50% by 2020. This make it even more important for all projects to be considered carefully and smaller projects like the Myreton wind farm will play an important role in achieving this target.

These targets are not a cap.

These targets should not be considered a final goal. Further renewable energy developments such as the Myreton scheme will be a necessity long into the future.

183. There is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit

Myreton Renewable Energy is a locally owned small business trying to use low profit farm and plantation land to diversify into a more profitable wind energy business. Funds generated from the scheme will stay in the local area and will not be removed from the area by multinational developers based abroad.

Planning authorities should support communities and small businesses in developing such initiatives in an environmentally acceptable way.

This small scale project has received not support from the planning authority and it's refusal on the grounds discussed is considered unreasonable.

184. Development plans should support all scales of development associated with the generation of energy from renewable sources, ensuring that an area's renewable energy potential is realised and optimized in a way that takes account of relevant economic, social, environmental and transport issues and maximises benefits.

Lurg Hill, the site of the proposed Myreton Development is one of the best sites in the area for a wind energy development due to its elevated position and the fact it has open and unobstructed wind flows from the south west, which is the direction of the prevailing wind. The proposed wind turbines have been located approximately half way down Lurg Hill in order to reduce their visual impact on the surrounding area.

Development plans should support the wider application of medium and smaller scale renewable technologies...

This size of project will be classified as small scale in terms of wind farms and therefore should be supported by Development Plans.

188. When considering cumulative impact, planning authorities should take account of existing wind farms, those which have permission and valid applications for wind farms which have not been determined.

As mentioned previously in this statement, the delay in the request for the Cumulative Impact Assessment, deliberate or otherwise was considered unreasonable as this meant that the Nethertown wind project had to be included in the CIA. Without the inclusion of the Nethertown project in the CIA, it is considered likely that decision for the Myreton application would have been positive.

Decisions should not be unreasonably delayed because other schemes in the area are at a less advanced stage in the application process.

This is exactly what happened with the Myreton proposal, thus allowing the Nethertown project to be included in the CIA and adversely affecting the outcome of the application.

The weight that planning authorities attach to undetermined applications should reflect their position in the application process.

Even with the delay, Nethertown should not have been included in the CIA as it was registered approximately 5 months after the Myreton project and projects should be considered with a reflection on 'their position in the planning process'.

190. *When identifying areas with potential constraints on wind farm development, planning authorities should consider the following:*

- *the historic environment,*

The response from the regional archaeologist can be seen in Appendix 7 and stated that 'the application should be approved unconditionally'.

- *areas designated for their regional and local landscape or natural heritage value,*

There are no designated areas around the Myreton site. The response from Scottish Natural Heritage can also be seen in Appendix 7 and is one of no objection.

- *tourism and recreation interests,*

The area around the Myreton site contains no tourism sites of significance. Walking, cycling and running would be considered to be the most popular recreational sports in the area and the proposal would not affect these activities.

- *likely impacts on communities, including long term and significant impact on amenity,*

The proposed project will not have a significant impact on the local community. The valley within which they are located is sparsely populated and none of the local residents objected to the scheme. The nearest settlement is the town of Keith 6km away and due to the size of the turbines and their positioning on Lurg Hill, they will not have a dominating visual impact.

The turbines will not be long term landscape features and will be expected to have a lifetime of 25 years

The amenity of the area will not be altered dramatically by the scheme due to the size and positioning of the wind turbines.

- *impact on aviation and defence interests, particularly airport and aerodrome operation, flight activity, tactical training areas, aviation and defence radar and seismological recording, and*

No objections were received from the MOD, the CAA or NATS.

- *impact on broadcasting installations, particularly maintaining transmission links.*

The BBC have stated that:

- You would be likely to affect 10 homes for whom there is no alternative off-air service.
- In addition, you may affect up to 2 homes for whom there may be an alternative off-air service.

Seren Energy's response was:

Our client would be happy to have planning condition requiring a baseline TV reception study to be undertaken prior to installation. This is often included as a planning condition for wind turbine schemes, and would include the identification and implementation of any mitigation measures required. This would include the provision of an alternative digital or satellite service if necessary. The 12 properties identified by the BBC is a relatively small number; the number of potentially affected houses is often in the 100s.

Development plans should recognise that the existence of these constraints on wind farm development does not impose a blanket restriction on development.

The Myreton wind farm should not have been refused on the grounds that it is outside the Preferred Search Areas for Small Wind Farm in Moray.