



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by Moray Local Review Body (the MLRB)

- Request for Review reference: Case 078
 - Site address: Backies, Deskford, Buckie AB56 5UR
 - Application for review by Fine Energy against the decision by an Appointed Officer of the Moray Council.
 - Planning Application 13/00058/APP: Erection of 2 Wind Turbines (19m Rotor Diameter) at Backies, Deskford, Buckie AB56 5UR
 - Unaccompanied site inspection carried out by the MLRB on Friday 19 April 2013
 - Date of Decision Notice: 18 July 2013
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Decision

The MLRB agreed to uphold the original decision of the Planning Officer to refuse the application.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 27 June 2013.
- 1.3 The Review Body was attended by Councillors C Tuke (Chair), G Leadbitter, G Coull, J Mackay and R Shepherd.

2.0 Proposal

- 2.1 This is an application for planning permission to erect of 2 wind turbines (19m Rotor Diameter) at Backies, Deskford, Buckie AB56 5UR

3.0 MLRB Consideration of request for review

- 3.1 With regard to the unaccompanied site inspection carried out on Friday 19 April 2013, the Planning Adviser advised the meeting that on the site visit members viewed the site from the public road and were advised where the turbines would be sited in the landscape. Members were also given information on the height of the turbines and distance to the nearest residential property.
- 3.2 In terms of the refusal, the Planning Adviser advised that the proposed turbine together with other operational and approved turbines would lead to unacceptable cumulative impacts both sequentially for those travelling along the local roads network and statically from numerous vantage points within the surrounding area. The resultant combined effect of these turbines would in turn give rise to a landscape which would have a cluttered appearance in contrast to its current simplistic character. Such impacts would detrimentally affect its rural character to an unacceptable degree.
- 3.3 In the Appellant's grounds for review, the Applicant provided an extensive planning statement and substantial appendix of supporting documents. The main issues raised were as follows;
- i. The site has been carefully chosen to ensure that landscape, visual and amenity impacts are minimised. Opportunities to view the turbines in isolation or in combination with others will be fleeting in most cases.
 - ii. The cumulative landscape and visual impact assessment accompanying the submission concludes that the landscape can absorb the change caused by the turbines without significant adverse impact and therefore disagrees with the Appointed Officers report of handling. In terms of cumulative impact due to the localised rise and fall in elevation and screening, this will not be an issue.
 - iii. Furthermore, in relation to cumulative visual impact it is considered that this should be based upon what exists in the local area and what is consented, not what might be consented in the future.
 - iv. The applicant felt it was notable that no objections have been received.
- 3.4 Councillor Leadbitter, having had the opportunity to view the site and consider the Appellant's grounds for review found no reason to disagree with the original decision of the Planning Officer and for the reasons outlined in the Report of Handling, he moved that the original decision of the Planning Officer to refuse the application be upheld.

- 3.5 Councillor Shepherd, having had the opportunity to view the site and consider the Appellant's grounds for review supported the motion by Councillor Leadbitter to uphold the original decision of the Planning Officer to refuse the application.
- 3.6 Councillor Coull, having had the opportunity to view the site and consider the Appellant's grounds for review highlighted that the Appellant's Agent had stated in his cumulative landscape and visual impact assessment that a number of areas will have medium-high visual impact and for these reasons he agreed with Councillors Leadbitter and Shepherd and supported Councillor Leadbitter's motion to reject the appeal.
- 3.7 Councillor Mackay, having had the opportunity to view the site and consider the Appellant's grounds for review stated that as the farm in question would benefit from the electricity generated from the proposed turbine, this would aid the continuing viability and security of the overall farming operation. Furthermore, as the turbines would be located in a rough grazing field and had a backdrop to the south, this would aid the visual impact. He further stated that the area was rural and of low population and noise pollution was considered acceptable according to the Moray Council. He further advised that as no objections had been received with regard to electromagnetic interference from National Air Traffic Systems or from the Ministry of Defence and the site had been chosen to minimise landscape visual and amenity impacts for these reasons he moved that the appeal be upheld and planning permission granted subject to standard conditions relating to wind turbines.
- 3.8 Councillor Tuke, having had the opportunity to view the site and consider the Appellant's grounds for review agreed with Councillors Leadbitter, Shepherd and Coull and further stated that the proposed wind turbine would have an unacceptable visual impact. He therefore agreed with Councillor Leadbitter's motion to refuse the appeal in terms of the Moray Local Planning Policies 2, ER1 and IMP1.
- 3.9 Therefore, on a four to one majority, the MLRB agreed to uphold the decision of the Appointed Officer to refuse the application and the appeal was refused.

Paul Nevin
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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

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.