

## PLANNING APPLICATION: 07/01102/FUL

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

### **The Proposal**

- This application is for detailed planning consent to erect a wind turbine on ground at Myreton, Crossroads, by Keith.
- The turbine proposed has a hub height of 55 metres and a rotor diameter of 44 metres, giving a tip height of 77 metres. This is 3 metres taller than the original specification of 50 metre tower and 48 metre rotor diameter which gave a tip height of 74 metres.
- Access is via the existing track serving Myreton Farm from the B9018 Keith-Cullen road.

### **The Site**

- The site is on ground to the north east of Myreton, on the south western shoulder of Lurg Hill.
- Location for the proposed turbine is on an open section of the hillside which lies entirely within the applicant's ownership. There are plantations of coniferous trees in the area of the site.
- Aside from the tree plantations, the hillside is formed of rough pasture.

### **Policy / Objections-Representations / Consultations - See Appendix**

### **History**

None.

### **Advertisement**

Not advertised.

### **Observations**

The main planning issues are:

#### **Environment (L/ENV2, L/ENV4, L/ENV22)**

The aim of these policies is to ensure the protection of sensitive environments from development which may damage them, either by the destruction of habitat or through pollution.

This application has been the subject of consultation with SEPA and SNH, and neither has objected to the development, although SNH have suggested a condition with regard to submission of a construction method statement. These responses are considered to address the policies, and there is thus no conflict with the development plan.

### **Renewable Energy (Policy 1(i), L/ED10)**

These policies refer specifically to the provision of renewable energy schemes within the Moray Council area. Both seek to promote renewable energy schemes, but emphasise that these should not be detrimental to the natural environment, interfere with aircraft activity, conflict with recreational facilities, or result in unacceptable visual intrusion, noise or electromagnetic interference.

It must be stressed in the first instance that none of the consultees has objected to this application, and that three of the letters of representation have been in support of the proposal. Several objections to the turbine nevertheless still stand, although many of the issues raised are not planning considerations. It is the view of this Service that this application for a single turbine is acceptable, and the specific aspects of this view are addressed in the relevant sections of this report. This view is based not only on consideration of the policies contained in the development plan, but also on this Councils' supplementary planning guidance on wind energy proposals (December 2005).

### **Access and Parking (L/T4, L/T7)**

The aim of these policies is to ensure that all new development can be provided with a safe and appropriate access from the public roadway.

The Transportation Manager was consulted on this application, and has raised no objection to the proposal, although one condition of planning consent has been recommended with regard to the transportation of construction elements into the site.

There is no conflict with these policies.

### **Siting and Design (L/IMP2, L/IMP3, L/IMP4)**

These policies are designed to ensure that all new development is situated and designed in such a manner that its impact on its environs is minimised.

As described at the beginning of this report, this application has been the subject of amended plans. The first plans received placed the proposed turbine virtually at the top of Lurg Hill in an extremely prominent position. In this location, the turbine would have been visible in its entirety from most of the surrounding countryside. At the request of this Service, the application was revised, and the turbine repositioned downhill, where its impact on the surrounding landscape will be greatly reduced. Several letters of objection were received to the initial proposal, but following re-notification for the amended plans no further representations have been received.

In terms of design, the details are that the turbine hub height will be 55 metres, and that it will have a rotor diameter of 44 metres, giving a tip height of 77 metres. The turbine design is comparable with others on approved sites elsewhere.

Taken overall, the proposed turbine is not considered to be in conflict with siting and design policies as contained in the development plan.

### **Impact Assessments (L/IMP5, L/IMP6, L/IMP7)**

These policies refer to the need for Impact Assessments on various matters relating to new applications. In this instance no detailed Impact Assessments have been sought by the Moray Council, or any of the consultees.

**Departures (L/IMP8)**

This application is not considered to be a departure from the development plan. It therefore has no implications for the policies contained therein, and any potential requirement to amend these.

**Author/Contact Officer:** Jim Martin  
Principal Planning Officer

**Ext:** 01343 563399

*Signature* ..... (*Alan Short, Development Control Manager*)

**R A STEWART**  
**DIRECTOR OF ENVIRONMENTAL SERVICES**

## **APPENDIX**

### **POLICY**

#### **Moray Structure Plan 2007 and/or Moray Local Plan 2000**

##### **Policy 1: Development and Community**

The policy set out below identifies the strategic community development requirements for the delivery of the structure plan strategy-

The Moray Structure Plan Strategy will be supported by:

- a) the identification within the local plan of the business and industrial land allowances set out in Schedule 1 and the provision of strategic business locations at Elgin and Forres Enterprise Park and business park opportunities at Buckie, Keith and Lossiemouth;
- b) the encouragement of tourism development opportunities;
- c) the identification within the Local Plan of the housing allowances set out within Schedule 2;
- d) the provision of affordable housing in association with new housing development where a demand is identified in the Local Housing Strategy;
- e) the encouragement of low impact, well-designed development in the countryside to support local communities and rural businesses;
- f) sustaining the vitality and viability of town centres through the support of opportunities and proposals for retail and commercial development in accordance with the sequential approach;
- g) promotion of the strategic transport links as set out in Proposal 2;
- h) the protection and enhancement and new provision of facilities for community use, healthcare, sport and recreation;
- i) the inclusion within Local Plans of a policy requiring appropriate developer contributions towards healthcare and other community facilities.

##### **Policy 2: Environment and Resources**

The Moray Structure Plan Strategy will be supported by: -

- a) protecting international, national and local nature conservation and scenic designations from inappropriate development;
- b) protecting the wider natural environment and local biodiversity from inappropriate development and promote opportunities for environmental enhancement and restoration where possible;

- c) working in partnership with the Cairngorms National Park Authority and other interested parties to implement the objectives of the National Park;
- d) restricting development within coastal areas outwith settlements to only that in which social and economic benefits outweigh environmental impact;
- e) providing protection from development to the countryside around the towns of Elgin, Buckie, Keith, Forres and Lossiemouth;
- f) conserving and enhancing the areas built heritage resources and their settings;
- g) supporting proposals aimed at regenerating the area's natural and built environment including good design;
- h) providing waste management facilities to deliver Area Waste Plan and National Waste Plan objectives and ensuring that new development is designed to facilitate waste management practices and promotes the minimisation of waste;
- i) promoting sustainable urban drainage systems (SUDS) in all new developments;
- j) promoting schemes to alleviate flooding in a sustainable and sensitive way using natural ecosystems and features where possible and also restricting development within flood risk areas following the guidance set out in the Risk Framework in SPP7: 'Planning and Flooding' and promoting flood risk management schemes to tackle flooding that threatens existing development and considering development proposals against the Flood Risk Framework set out in Table 5;
- k) safeguarding the area from pollution and contamination;
- l) promoting opportunities for the sensitive development of renewable energy and promoting renewable energy in new development;
- m) safeguarding resources for the production of minerals, preferred forestry areas, and prime agricultural land.

### **Policy L/ED10: Renewable Energy Proposals**

Proposals for renewable energy will be considered favourably where they meet the following criteria:-

- i) they are compatible with policies to safeguard and enhance the built and natural environment (see chapter two). High design and siting standards will be sought in all new developments.
- ii) they do not lead to the permanent loss or permanent damage to, prime agricultural land.
- iii) they are compatible with tourism/recreational facilities.
- iv) they do not interfere with aircraft activity.

- v) they do not result in an unacceptable impact in terms of visual intrusion, noise, electro magnetic disturbance, pollution, traffic generation or damage to the local ecology.
- vi) they do not result in an unacceptable cumulative impact.

Proposals may be required to provide 'decommissioning arrangements' to illustrate how the site will be re-instated if and when the plant ceases to operate - this may be enforced by condition of consent through the use of section 75 agreement. Where the Council is satisfied that a site has particular merit for a renewable energy development it will safeguard such sites from development which would inhibit their subsequent exploitation.

## **Policy L/ENV2: Non Statutory Nature Conservation Sites**

### **Local Designations**

Development proposals which will have an adverse effect on Local Nature Reserves, SINS or conflict with the objectives of Local Biodiversity Action Plans, will only be permitted if they incorporate specific measures to minimise impact and conserve the site's ecological interest and moreover, where significant adverse impacts are involved, a locational need must be clearly established.

## **Policy L/ENV4: Tree Preservation Orders and Controls on Trees**

The Council will serve Tree Preservation Orders (TPO) on potentially vulnerable trees which are of significant amenity value to the community as a whole.

Within Conservation Areas the Council will not normally agree to the felling or removal of trees and advice will be sought to determine when there is a need to serve a TPO.

The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced. An applicant may be required to survey and identify those trees to be protected within the development site.

When imposing planting or landscaping conditions on certain developments especially in rural areas, the Council will specify the use of native species of trees and will prioritise the re-establishment and extension of hedgerows and/or shelter belts.

## **Policy L/ENV22: Pollution Conditions**

Where there is a risk of pollution from a proposed development, which is the subject of a planning application, the council will apply conditions to a consent, or enter into an agreement with a developer, to ensure a specified reduction or removal of the pollution element and will require subsequent independent monitoring of pollution levels.

## **Policy L/T4: Provision of Road Access**

The Council will require that a suitable and safe access from the public highway is provided.

**(i) Design of Road Access**

Since the formation of a new access by unmade track or surfaced private road (particularly in rural areas) can often result in a scar on the landscape ( e.g. if it dissects an agricultural field, involves extensive tree felling or traverses a hillside), then unless a proposed new access is carefully designed within the landscape the proposal will be unacceptable.

**(ii) Road Access Standards**

Where access to the site is by unmade/private track the Council may require it to be surfaced to a specified standard. If the access is of significant length and may serve more than one development site, some widening and the provision of passing places may additionally be imposed as a condition of any consent.

**(iii) Unmade Private Tracks**

Where a site takes access from an existing unmade private track which is outwith the ownership of the applicant and is considered to be of such a poor standard as to be unsuitable for additional vehicular traffic, the Council may consider the proposal unacceptable, unless the applicant can either:-

- a) secure ownership of the track to allow for improvements to be made to the satisfaction of the Council, or
- b) demonstrate that an appropriate agreement has been concluded with the existing owner to allow for improvements to be made to the satisfaction of the Council.

**(iv) Phasing of Road Improvements**

Where a new access roadway is to be provided the Council may require the road to be made up to a specified standard before work on the new property commences.

**Policy L/T7: Parking Standards**

Proposals for different forms of development must comply with the Council's 'Car Parking Standards' (available from the Council's Roads Service).

Where development (including housing) within the defined town centre cannot reasonably supply parking on site, (or where it is appropriate not to include parking), the developer will require to comply with the Council's system for 'commuted payments' for parking. Housing development in town centres which need not provide residential parking on site, must make provision for vehicular access for deliveries and emergencies.

In housing developments of over 30 houses, provision must be made for communal off-street parking, in addition to in-curtilage in order to permit the parking of large commercial vehicles away from road frontages.

**Policy L/IMP2: Development in Rural Areas**

The Council will seek to ensure that all proposals for development in the rural area (i.e. all areas in Moray outwith town settlement and rural community boundaries) are compatible in terms of character, amenity and design, integrate sensitively into the environment and, where possible, located within easy walking range of public transport (this latter requirement will particularly apply to large scale developments). The Council will, therefore, pay special regard to matters

such as traffic and landscape impact, accessibility, loss of productive or biodiverse land, siting, scale, colour and energy conservation. The Council will consult relevant organisations such as Scottish Natural Heritage, the Scottish Environmental Protection Agency etc. on significant development proposals and 'The Moray Landscape Character Assessment' report as prepared by Scottish Natural Heritage will be utilised to inform decisions on siting and locating within the landscape.

### **Policy L/IMP3: New Building Design**

#### **(i) Design Principles**

All building development must be designed to respond adequately to the locality. Applications must meet the following requirements:-

- a) appropriate location in landscape or townscape
- b) careful placement on a site, particularly in relation to character, amenity and energy conservation
- c) appropriate size and form in relation to existing buildings, sky line and landform
- d) appropriate density, layout and orientation in relation to character, amenity, privacy of neighbouring properties and energy conservation
- e) sensitive use of materials and colours in relation to existing setting and environmental impact

Standardised solutions to building design are not encouraged and will not be acceptable unless existing context (the design and character of the existing surroundings) suggests otherwise. Design solutions which seriously compromise the amenity and character of the area will not be permitted.

Highly innovative, experimental solutions will be encouraged but may not be suitable in every situation. In certain circumstances, the Council may request written design statements explaining various aspects of design solution e.g. explaining why a particular approach has been taken, and expect applications to show new buildings in their wider relationship with surrounding properties and the site (plans and elevations/perspective/ photomontages showing adjacent buildings, trees, landform etc)

#### **(iii) High Profile/Landmark Sites**

Where a building is either high profile or will have high impact within the townscape or open countryside, i.e. along the A class road network and high street frontages, within defined town centres, and at major visitor attractions and prominent rural locations, The Council will expect high quality solutions and may consult with bodies such as The Royal Fine Arts Commission, the Royal Institute of Architects in Scotland, the Scottish Civic Trust, Historic Scotland and the Association for the Protection of Rural Scotland, to assist with the assessment of the design impact.

On sites considered to be high profile, the Council will encourage applicants and landowners to sponsor design competitions prior to the submission of a planning application under the rules and procedures as advised by the RIAS Competitions Unit.

#### **(iv) Materials**

The Council will particularly encourage the use of materials which are sustainable. The use of salvaged or recycled material is encouraged in most circumstances subject to local situation and there is a strong expectation that traditional materials will be used on heritage structures. The Council will discourage the over use of high energy materials (i.e. those which require high energy levels to make and dispose) where alternatives can be used and is also concerned about the potential long term affects of using Tropical Hardwoods, from non-managed sources.

#### **Policy L/IMP4: Maintenance of Landscaped and Amenity Areas**

Applicants must demonstrate that satisfactory arrangements have been made to secure the maintenance of all landscaped and amenity space in perpetuity. Such arrangements must be put in place prior to any planning consent being issued. These arrangements shall be to the satisfaction of the Council and limited to:-

- i) a Section 75 Agreement (under the terms of the Town & Country Planning (Scotland) Act 1997) with a Bond in perpetuity, or
- ii) an Agreement leading to adoption by the Council (normally involving a capital sum equal to 1 year's maintenance x 20 with transfer of title), or
- iii) an Agreement to transfer title and responsibility for the provision and maintenance of the amenity and landscaped spaces to a maintenance company such as the Scottish Greenbelt Company or such other similar company constituted to secure maintenance in perpetuity, as is acceptable to the Council.

#### **Policy L/IMP5: Environmental Impact Assessment**

The Council will require an Environmental Impact Assessment to be prepared for developments proposed within or adjacent to national and international designations of natural heritage (see L/ENV1), and for other major proposals identified by the Regulations (or by the revised Directive) which are likely to adversely affect the environment.

#### **Policy L/IMP6: Transport Impact**

Developers shall provide transport impact assessments for developments which may have a significant impact on traffic flows, pedestrians and cyclists and contributions shall be sought towards any mitigating transport measures shown to be necessary. All proposals must meet the requirements of policies L/T4 (Access), L/T7 (Parking), L/T9 (Mitigation) and L/T10 (Cycling) in Chapter 4 if relevant.

#### **Policy L/IMP7: Drainage Impact**

New development must connect to a public sewer for the disposal of foul drainage if one is available within a Town, Village or Rural Community. If it is not available alternative forms of treatment may be considered and must meet with the approval of NOSWA and SEPA. The Council will promote the employment of Sustainable Urban Drainage Systems (Sustainable Urban Drainage Systems) in the disposal of surface water run-off, and unless otherwise advised by SEPA, will operate a presumption against the disposal of surface water directly to a watercourse. Proposals must meet the requirements of policies L/ENV21 (Private Waste Water

Treatment and Drainage), L/ENV22 (Pollution Conditions), L/ENV23 (Private Water Supplies), L/ENV24 (Surface Water Drainage) and L/ENV26 (Control of Development in Flood Risk Areas) in Chapter 2, if relevant.

### **Policy L/IMP8: Departures From The Local Plan**

Departures from the local plan will be managed in accordance with advice as laid down in Planning Advice Note 41: Development Plan Departures (The Scottish Executive). Proposals which involve substantive or significant policy changes or which are judged to involve major social, environmental or economic impacts, will be the subject of formal alteration procedures to amend the local plan. Such procedures will allow for a structural community participation input and may include a Public Local Enquiry.

### **OBJECTIONS-REPRESENTATIONS**

Letters of representation received from:

- M Young, Kis42sqn-ndseng@kinloss.raf.mod.uk
- Mrs Barbara Hazell, West Balnamoon, Crossroads, Keith, AB55 6ND
- Hazel Warner, Carestown Cottage, Deskford, Buckie, AB56 5TR
- Martin Ball, 1 Gorricks Stony, Stratford, MK11 1HB
- Hugh Alexander, The Mains of Balnamoon, Grange, Keith, AB55 6NJ
- Jane Alexander, The Mains of Balnamoon, Grange, Keith, AB55 6NJ
- Clare Rickerby, Southwaite Park, Southwaite, Carlisle, Cumbria, CA4 0LN
- Mr and Mrs P Firmin, No address details
- Lynn Fairclough, Hill of Balnamoon, Crossroads, Grange, By Keith, AB55 6NN

The main points of the letters are:

- **Impact on wildlife**  
One of the letters of representation objects to the proposal on the grounds that it would have an adverse effect on wildlife in the area.  
**Agent's response:** None.  
**Comment:** SNH have been consulted about this application and have made no objections to the proposal but have asked that the applicant be required to submit a full construction method statement in the event of planning consent being granted.
- **Impact on landscape**  
It is submitted in the letters of representation that the proposed turbine will be situated in a very prominent position and that it will be an 'eyesore'.  
**Agent's response:** None.  
**Comment:** It is accepted that the application as originally submitted would have resulted in the proposed turbine being situated in a very prominent position from where it would have been viewed from a very wide area. However, following negotiation with the agents, a revised scheme has been submitted with the turbine located in a far less obvious and prominent location.

- **Suitability of area for turbine**

The letter of objection questions the suitability of the area for location of the turbine on a number of grounds, including its position in relation to residential properties and the cumulative impact.

**Agent's response:** It is unreasonable to object to this single wind turbine application on the basis of its proximity to residential properties in the area, as the '1km rule' is surely intended for wind farms, rather than single turbines. Similarly, it is not considered that there is an issue with cumulative impact as the application is for one turbine only.

**Comment:** The view of this service following due consideration of the application is that the proposal (in amended form) is acceptable. In landscape and environmental terms this is considered to be acceptable. The 1km distance referred to is contained within the supplementary planning guidance produced by this Council, and is not prescriptive. There is another single turbine proposed at a short distance away at Balnamoon. This is in a far more open landscape setting, and is also less than 1km away from a number of residential properties.

- **Lack of prior consultation**

Objection to the scheme is made on the basis that there was a lack of prior consultation with the local community on the scheme.

**Agent's response:** The applicant did in fact consult with local residents prior to the application - some by letter and some through individual contact.

**Comment:** This is not a valid planning reason, and cannot be taken into consideration in determination of the application.

- **Support:** Three of the letters received are in support of the application.

## **CONSULTATIONS**

**Environmental Health Manager, Development Services** - No objection subject to planning conditions.

**Contaminated Land, Development Services** - No objection subject to one informative.

**Environmental Protection Manager, Direct Services** - No objection.

**Transportation Manager, Direct Services** - No objection subject to a planning condition relating to access for construction traffic.

**SEPA** - No objection.

**Scottish Natural Heritage** - No objection, although comments have been made with regard to aspects of the scheme, and a full construction method statement is sought for approval prior to the commencement of construction works.

**MOD Air Safe** - No objection.

**Strathisla Community Council** - No response received.