

THE MORAY COUNCIL
MINUTE OF SPECIAL MEETING OF
THE PLANNING & REGULATORY SERVICES COMMITTEE
TUESDAY 13 OCTOBER 2009
COUNCIL OFFICE, ELGIN

PRESENT

Councillors S. Cree (Chair), J Russell (Deputy Chair), L Bell, G Coull, M McConachie, G McDonald, F Murdoch, D Stewart and A Wright.

APOLOGIES

Apologies for absence were intimated on behalf of Councillors J. Divers, J. Hamilton, A McDonald and A McKay.

IN ATTENDANCE

The Director of Environmental Services, the Head of Direct Services, J Martin, Principal Planning Officer, (Development Control), D Anderson (Engineer (Transport Development)), A McEachan, Principal Solicitor (Commercial and Conveyancing), Darren Westmacott, (Committee Services Apprentice), and the Senior Committee Services Officer, Clerk to the Meeting.

DECLARATION OF GROUP DECISIONS

Councillor F Murdoch declared a personal interest in item 2 and left the meeting taking no part in the discussion or decision.

There were no other declarations from Members, group leaders or spokespersons in regard to any prior decisions taken on how members will vote on the item on the Agenda.

2. SECTION 36 CONSENT: CONSTRUCT AND OPERATE A WIND FARM AT DORENELL, GLENFIDDOCH ESTATE, SOUTH EAST OF DUFFTOWN FOR INFINERGY (08/01200/S36)

There was submitted a report by the Director of Environmental Services inviting the Committee, in its capacity as the appropriate Planning Authority, to consider a recommendation to the Scottish Government in regard to a Section 36 Consultation on an application for the construction and operation of a windfarm at Dorenell, Glenfiddich Estate, South East of Dufftown for Infinergy.

The meeting noted that under the terms of Section 36 of the Electricity (Scotland) Act 1989 applications for more than 50MW of power generation are to be lodged with and determined by the Scottish Government. Local Authorities are statutory consultees. In the event that the Council submits an objection to the proposal, a Public Inquiry will require to be held.

The meeting also noted that the application was lodged with the Scottish Government Energy Consents/Deployment Unit on 6 May 2008 and has been considered in terms of the Moray Structure Plan 2007, the Moray Local Plan 2008, and the Council's Wind Energy Strategy, 2005. A copy of the Planning Officer's report on the proposal was appended to the report.

Prior to considering the report on the Section 36 Consent the Director of Environmental Services advised the Committee that recommendation 3) required to be amended to include the words 'appropriate conditions and' between 'on' and 'developer' in the third line.

The Director also advised that, prior to the commencement of the meeting, a DVD had been delivered showing a fly through of the proposed development site and had this been provided earlier it may be helpful to objectors and members of the Committee in assessing the proposals. However as it was not part of the initial submissions it could not form part of the Committee's consideration of the report. The Director also referred to concerns of possible bias expressed by objectors that Councillors visited the site of the proposed development in vehicles supplied by the applicant and a letter from the applicant expressing the view that the report before the Committee was not objective. The correspondence in regard to both these issues would be forwarded, along with the Committee's decision, to the Scottish Government Energy Consents/Deployment Unit for whatever action it considers appropriate.

During discussion Councillor McConachie expressed his concern in regard to the Council being included in negotiations relating to the establishment of a Community Fund, a view which was shared by several other Members. Concerns were also expressed that recommendation 3) implied that approval of any negotiated developer contributions would be a delegated matter without referral to Committee. Following further discussion it was agreed that the words 'including a Community Fund' be deleted from the end of recommendation 3). It was also noted that were the development to be approved any negotiated developer contributions and recommended conditions could be submitted to Committee for consideration, prior to submission to the Scottish Government Energy Consents/Deployment Unit.

Councillor Russell expressed the view that whilst he found the report to be finely balanced the overriding concern was, in his opinion, the cumulative impact and for this reason moved that:-

- (a) the Council lodges an objection to the Dorenell wind farm application, under the terms of the Section 36 Consultation, on the basis that the proposal is located in an area which is in conflict with the Council's Strategy for windfarm location, and that there is insufficient justification for over-riding that strategy on the basis of the cumulative visual impact created by the proposed 59 turbines and access tracks;
- (b) that the above recommendation is forwarded to the Scottish Government's Energy Consents Unit as this Council's formal response; and
- (c) that, in the event that the Scottish Government approves the application, this Council requests that it be party to any discussion and negotiation on appropriate conditions and developer contributions and that draft conditions and proposed developer

