

**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON 6  
APRIL 2010**

**SUBJECT: POLICY INTERPRETATION FOR WIND TURBINE  
DEVELOPMENTS**

**BY: DIRECTOR OF ENVIRONMENTAL SERVICES**

**1. REASON FOR REPORT**

- 1.1 This report asks the Committee to consider various aspects regarding its wind energy guidance as it applies to developments of up to 3 individual wind turbines. The Committee is also asked to consider the proposed Permitted Development arrangements for domestic micro-renewable wind energy.
- 1.2 This report is submitted to Committee in terms of Section D(2) of the Council's Administrative Scheme relating to the preparation of Strategic and Local Plans.

**2. RECOMMENDATION**

- 2.1 It is recommended that the Committee agrees to the interpretation of national and local policy as follows:
- i) Any proposals of over 20Mw, or over 3 turbines will be treated as windfarms, and should be located within a Preferred Search Area (PSA). Proposals outwith will be treated as Departures with a presumption against approval.
  - ii) Applications for single, or small groups of up to 3 'commercial' turbines under policy should be located within PSA. Proposals outwith will still be treated as Departures, but considered "on their merits", depending upon impact on the landscape, other environmental criteria, the Development Plan, and any other material considerations, in a similar way to any other development application in the countryside.
  - iii) Domestic or own use turbines will not be regarded as 'commercial', and thus under policy are not required to be located within PSAs.
  - iv) Cumulative impact will be a prime consideration, and take account of existing windfarms/turbines and those which have permissions. New proposals will be considered on a "first come" basis.
  - v) Comments on proposed Permitted Development criteria as in Section 5 of this report should be forwarded to Scottish Government.

**3. BACKGROUND**

- 3.1 The Council has a Local Plan Policy, and Supplementary Planning Guidance on wind energy. This is primarily addressed at wind FARMS, with proposals

for 0-10 turbines being classed as a small windfarm. The Supplementary Guidance is aimed at commercial scale wind turbine developments, and has identified preferred search areas. The Local Plan Policy ER1 states that "Commercial wind energy developments should be located within a Preferred Search Area" (as identified in map form in the Supplementary Planning Guidance (SPG)).

- 3.2 In the past 12 months the Council has received a number of applications for wind turbines, either as individuals, or in groups of 2 or 3. Whilst under the terms of policy and SPG these would be classed as small windfarms, there is a clear difference in scale when compared with conventional "farms" such as Pauls Hill or Cairn Uish.
- 3.3 However as (albeit small) wind "farms", and clearly commercial, policy would direct these to Preferred Search Areas. Indeed they are classed as Departures if outwith PSA.
- 3.4 Applicants and agents for individual/small groups of wind turbine proposals are regularly drawing attention to the newly revised Scottish Planning Policy (SPP) and Planning Advice Note 45 Annex 2 (November 2008) as evidence of Scottish Government support for renewable energy from wind power, and indeed it is likely that the increase in demand has been occasioned by the Government's subsidising of renewable energy projects.
- 3.5 The Guidance contained in SPP and PAN 45 is predominantly aimed at providing advice to Planning Authorities for windfarms of over 20 mega watt generating capacity, and how to develop a spatial framework (this is essentially the Preferred Search Areas identified in the Council's SPG). Authorities can take windfarms of less into their spatial framework if considered appropriate.
- 3.6 The extent to which SPG considerations will be relevant to developments under 20mW will depend upon scale. Design and location must reflect the scale and character of the landscape. It is likely that considerations which are relevant will only be identifiable in the context of a specific case.
- 3.7 Single turbines of a similar size to those on windfarms, are likely to be of increasing interest to developers. The PAN states that these are likely to have a smaller impact than a windfarm. However if several single turbines are constructed in the same area, then cumulative impact may be an issue. The height of hub, and the lengths of the blades; the scale and character of the landscape; impacts on amenity and biodiversity, are likely to be some of the important considerations.
- 3.8 The Committee has previously considered the content of PAN 45 Annex 2 (item 5 of minute of meeting 12 May 2009 refers), and concluded that the current SPG sufficiently reflected the approach being proposed, and would remain acceptably up to date until the next Local Plan Review (2011 – 2012). However, with the increase in applications for singles turbines, or small groups of 2/3, there may be a need for earlier consideration.

#### 4. **PROPOSALS**

- 4.1 The current policy/SPG provisions should be applied to proposals of over 20 megawatts, and a different interpretation applied to smaller developments, to allow consideration of individual turbines outwith the wind “farm” category.
- 4.2 **Developments of conventional windfarm scale** (i.e. over 20 megawatts) should be located within Preferred Search Areas, as advocated by policy and SPG. Any grouping of 4 or more turbines will be regarded as a windfarm in this respect. Proposals outwith PSA will be treated as Departures from the Local Plan, with a presumption against approval.
- 4.3 **Single or small groupings of up to 3 turbines** for “commercial” purposes under policy should be located within PSA. Developments outwith PSA will be treated as Departures, but in light of the more recent Government advice being taken into account as a material consideration, will not be “presumed against” but considered “on their merits” depending upon impact on the landscape and other environmental criteria. Cumulative impact will be of particular significance, and will take account of existing windfarms and those which have permissions. New proposals will be considered on a “first come” basis.
- 4.4 Proposals for domestic or own use turbines are not considered as ‘commercial’ and thus there is no policy requirement for these to be located within PSA. Where the capacity of the turbine seems excessive for ‘own-use’, Planning Officers may ask for justification of this as part of the planning application consideration.
- 4.5 The adoption of this approach can be justified on the basis that:
- (i) current policy and SPG are targeted more at the windfarm scale of development.
  - (ii) the size and scale of turbine proposals being submitted are generally smaller in capacity than those within “windfarms”. Proposals in the non-preferred search areas can be permitted where there is no adverse environmental impact.
  - (iii) SPP and PAN 45 Annex 2 recognise that single turbines are likely to have an increasing interest to developers. Taking into account the range of sizes that might come forward, it is likely that consideration will only be practicable in the context of a specific case.
  - (iv) the potential of cumulative impact will be a key factor in assessing applications.
  - (v) SNH has adopted a more flexible approach towards landscape impact for developments of up to 3 turbines.

The foregoing does not represent a change in policy, but is more a matter of how policy is interpreted in the context of smaller scale wind turbine proposals. This can be more comprehensively covered in the next Review of the Local Plan.

- 4.6 The “on merit” assessment method would also apply to “own use” proposals seeking to sell surplus electricity to the grid. There would be no need to set different criteria for making this distinction.
- 4.7 The underlying philosophy should still remain as the avoidance of a proliferation of wind turbines across the Moray landscape.

## 5. **DOMESTIC MICRORENEWABLES**

- 5.1 The Scottish Government has recently published proposals for permitted development rights for domestic micro wind turbines, and is currently consulting on these.

5.2

<b>Type of Microgeneration Technology</b>	<b>Normal Domestic Buildings</b>	<b>Buildings in Conservation Areas and World Heritage Sites. Within the curtilage of listed buildings</b>
Wind Turbines on Buildings	Permitted if: <ul style="list-style-type: none"> <li>• height above roof ridge does not exceed 3m, including blades;</li> <li>• maximum diameter of 2.2m or swept area of 3.8sq m;</li> <li>• noise emissions at nearest curtilage must be &lt;45dB(A), and &lt;30dB(A) within any neighbour’s habitable room by MCS noise calculation;</li> <li>• subject to MCS product and installer;</li> <li>• only one micro wind turbine per dwelling. To be removed when no longer required.</li> </ul>	Not permitted

Type of Microgeneration Technology	Normal Domestic Buildings	Buildings in Conservation Areas and World Heritage Sites. Within the curtilage of listed buildings
Free Standing Wind Turbines of up to 3.5m diameter (or 9.6sq m swept area)	Permitted if: <ul style="list-style-type: none"> <li>• height on mast (inc blades), does not exceed 11.1m;</li> <li>• it must be installed &gt;100m from neighbour's curtilage;</li> <li>• must achieve noise at nearest curtilage &lt;45dB(A) and &lt;30dB(A) within any neighbour's habitable room by MCS noise calculation;</li> <li>• subject to MCS product and installer;</li> <li>• only one per dwelling, to be removed when no longer required.</li> </ul>	Not permitted. Additionally, not permitted within SSSIs and sites of archaeological interest
Free Standing Wind Turbines of up to 2.2m diameter (or 3.8 sq m swept area)	Permitted if: <ul style="list-style-type: none"> <li>• height on mast (inc blades) does not exceed 11.1m;</li> <li>• must be installed &gt;11.1m from neighbour's curtilage;</li> <li>• must achieve noise at nearest curtilage of &lt;45dB(A), and &lt;30dB(A) within any neighbour's habitable room by MCS noise calculation;</li> <li>• subject to MCS product and installer;</li> <li>• only one per dwelling; to be removed when no longer required.</li> </ul>	Not permitted. Additionally, not permitted within SSSIs and sites of archaeological interest

(MCS = Micro Certification Scheme)

5.3 These criteria would seem sufficiently strong to prevent an outbreak of permitted development turbines. The distances from neighbours will be very difficult to achieve in urban areas, and to be fully efficient and catch maximum windspeeds, towers may need to be considerably higher than allowed. There may be more scope for uptake in more upland rural areas.

5.4 The proposed noise thresholds present concerns to Environmental Health Officers, who fear that the minimum levels may represent too great an increase on ambient noise levels, particularly in rural areas.

5.5 It is proposed that these concerns be included in the Council's response to the consultation document.

## 6. SUMMARY OF IMPLICATIONS

### (a) Single Outcome Agreement/Service Improvement Plan

None

**(b) Policy and Legal**

This report is relevant to the implementation of Local Plan Policy and Supplementary Planning Guidance. It does not propose a change to policy, but proposes how it should be applied to single/small groups of turbines, which are not “conventional” windfarms.

**(c) Resources (Financial, Risks, Staffing and Property)**

None

**(d) Consultations**

Aileen Scott (Principal Solicitor, Commercial and Conveyancing) and Douglas Caldwell (Environmental Health Officer) have been consulted and their comments incorporated into the report.

**7. CONCLUSION**

**7.1 National and local policy and guidance is made with regard to larger scale wind energy proposals.**

**7.2 Such policies do not seem to cater well for the current demand for smaller scale single turbines or groups of up to 3.**

**7.3 Current policy should be interpreted to allow such proposals to be considered “on merit”.**

**7.4 The overall intent remains to avoid a proliferation of turbines across the Moray landscape. Cumulative impact of consents granted will be an important factor in this respect.**

**7.5 The overall policy context for all levels of turbine proposals can be looked at comprehensively as part of the replacement of the Moray Local Plan with the new Local Development Plan in 2011-12.**

**7.6 Proposed permitted development rights contain sufficient control over micro wind turbine proposals, although there are concerns about the noise thresholds proposed.**

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Background Papers:  
Ref: MC/JC