



ITEM:

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**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
13 OCTOBER 2009**

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

BY: DIRECTOR OF ENVIRONMENTAL SERVICES

1. REASON FOR REPORT

- 1.1 To invite 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, Moray.
- 1.2 This report is submitted to Committee in terms of Section D(2) of the Council's Administrative Scheme as the Committee exercising the statutory functions of the Council as Planning Authority under the Planning Acts, the Local Government (Scotland) Act 1973; the Local Government Act 1984 and other relevant legislation.

2. RECOMMENDATION

It is recommended that:-

- 1) **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 visual impact created by the proposed 59 turbines and access tracks, and the impact on the local economy, in particular tourism; all as contained in the "Conclusions" section of the Planning Officers report;**
- 2) **that the above recommendation is forwarded to the Scottish Government's Energy Consents Unit as this Council's formal response; and**

- 3) **that, in the event that the Scottish Government approves the application, that this Council requests that it be party to any discussion and negotiation on developer contributions, including a Community Fund.**

3. BACKGROUND

- 3.1 This application was lodged with the Scottish Government Energy Consents/Deployment unit on 6th May 2008.
- 3.2 On part of the same site, applications for the erection of two wind monitoring masts were approved by Committee in October 2006. There is no other planning history.
- 3.3 The Planning Officer's report in respect of the Section 36 Consultation is attached as **Appendix 1**.

4. SUMMARY OF IMPLICATIONS

- (a) **Corporate Development Plan/Community Plan/Service Improvement Plan – Not applicable.**

(b) **Policy and Legal**

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 proposed wind farm has been considered in terms of the Moray Structure Plan 2007, the Moray Local Plan 2008, and the Council's Wind Energy Strategy, 2005.

- (c) **Resources (Financial, Risks, Staffing and Property) – presenting.**

There may be resource implication arising from professional evidence to an Inquiry.

(d) **Consultations**

Consultations are as per the process in framing the Appendix report.

5. CONCLUSION

- 5.1 As per the Planning Officers Report (Appendix 1 para 8) Conclusions

Author of Report: Director of Environmental Services

Background Papers:

Ref:

Signature: _____ Date: _____

Designation: Director of Environmental Services Name: Robert A Stewart