



Aberdeenshire Council Local Review Body

Reference LRB 271 F/APP/2014/4222

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Land at Upper Mains, Turriff
- Application for review by Upper Mains Renewables LLP c/o Muirden Energy LLP against the decision by an Appointed Officer.
- Application reference F/APP/2014/4222 for full planning permission for erection of 1 No. 800 kw wind turbine, hub height 50 m (total height 74 m); and associated infrastructure refused by decision notice dated 17 February 2015
- Application drawings: Site Layout @1/8000 scale (Figure 1.2); Planning Map @ 1/4000 scale (Figure 1.3); Turbine Elevations @1/500 scale Turbine Floor Plan @1/500 scale.
- An unaccompanied site inspection took place on 15 May, 2015

Date of Decision: 18 June, 2015

Decision

The Local Review Body (LRB) agrees with the determination reviewed by it and refuses Full Planning Permission in accordance with the Appointed Officer's decision.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The LRB reviewed the determination of the above application for full planning permission at its meeting held on 29 May, 2015. The LRB was attended by Councillors S W Pratt (Chair), P W Bellarby, F C P Hood and C Shand. As part of the review the LRB had carried out an unaccompanied site inspection on 15 May, 2015 which the LRB had previously agreed to undertake when it deferred consideration of the case at its earlier meeting held on 24 April, 2015.

- 1.3 Having undertaken the site inspection and viewed the proposed site from a number of different vantage points, the LRB agreed there was now sufficient information before it in order to consider the review and that no further information was required.

2.0 Proposal

- 2.1 The application proposal is for the erection of an Enercon E48 (800kW) wind turbine with a blade diameter of 48 m and a hub height of 50 m thereby giving a total height to tip of 74 m. Access is proposed from the north from the minor access road that leads to Upper Mains of Muiresk Farm. The proposal comprises additional associated infrastructure including hardstandings.
- 2.2 The turbine would be located on agricultural land approximately 110m above sea level and would be located 600m south of the nearest dwellinghouse at Upper Mains of Muiresk, which is within land owned or controlled by the applicant.
- 2.3 The nearest settlement, Turriff, as defined in the Aberdeenshire Local Development Plan (ALDP) is located approximately 2km to the northeast of the application site.
- 2.4 The application site is located within the Upland Ridges South of the Deveron (LCA).
- 2.5 A previous planning application to erect 2 wind turbines at the site (APP/2011/0953) with a total height to tip of 45m was approved by the council in May 2013 and that permission remains valid until May 2016. Two wind turbines (40.4m to tip) had been approved (APP/20112686) and were now operational at Mahon Farm, a short distance to the west of the site.
- 2.6 An EIA Screening Request had previously confirmed that a full EIA was not required. The application had been supported by a full Environmental Report.

3.0 Reasoning

- 3.1 The main determining issue in this review was whether the general policy presumption in favour of wind energy development was outweighed by potential adverse impacts to the detriment of the character and appearance of the local landscape both individually and cumulatively.
- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2012 policies and these were as follows:

Policy 3: Development in the countryside and SG Rural Development2:
Wind farms and medium to large wind turbines;

Policy 8: Layout siting and design of new development and SG LSD 2: Layout, siting and design of new development;

Policy 12: Landscape conservation and SG Landscape1: Landscape character; and

Policy 14: Safeguarding of Resources and areas of search and SG Safeguarding 4: Safeguarding transportation facilities.

- 3.3 At the outset, the benefit of the site inspection was acknowledged as affording the members of the LRB a greater appreciation of the potential impacts that may arise from the proposed wind turbine and its relationship to existing and consented wind turbine development in the surrounding area as well as its relationship to nearby properties.
- 3.4 In particular the site inspection had enabled the LRB to assess the potential cumulative impact of the proposed turbine in relation to the other consented turbines in the surrounding area including the relationship with the two existing (40.4m to blade tip) operational turbines at Mahon Farm located to the west.
- 3.5 The LRB focussed its attention on the reason for refusal and also the applicant's case as contained in the Notice of Review all of which had been summarised by the Planning Adviser during his presentation. The Planning Adviser had also summarised the responses received from consultees and also highlighted the issues raised in the 17 representations (1 objection and 16 in support) that had been received to the application. The Planning Adviser had also addressed the additional responses received to the Notice of Review, including the consultation response received from Environmental Health which had been received after the appointed officer had completed the Report of Handling.
- 3.6 During discussion the LRB considered that on balance the key determining issue in this case was whether the proposed erection of a single turbine at 74m to blade tip was preferable to the existing extant planning permission for two turbines to be erected at a lower height of 45m to blade tip in terms of impact on the landscape and also whether the proximity to other turbines of differing height would mean that there was an unacceptable cumulative visual and landscape impact
- 3.7 The LRB also took account that within their statement, the agents had confirmed that they would not be proceeding with the construction of the two previously consented 45m high wind turbines at Upper Mains if permission was granted for this alternative single 74m high turbine. The agents had also advised that the single 74m turbine would be quieter and more productive than the two consented 45m high turbines.

- 3.8 One member of the LRB did not consider that there would be an adverse cumulative impact created by this proposal as approval of this single turbine would result in one less turbine being located in the landscape. However the majority view of the remaining members of the LRB was that from a number of different vantage points the proposed turbine (due to its scale and height) would result in a very significant increase in height from the scale of turbines already approved at the site and also nearby at Mahon Farm, resulting in a disharmonious impact on the wider landscape to the detriment of the overall quality of landscape character of the area.
- 3.9 The LRB agreed with the appointed officer that the twin factors of separation distances and differing heights would result in this particular single turbine being prominent and overbearing. The LRB therefore agreed with the appointed officer's conclusions that the proposed turbine would lead to an unacceptable cumulative impact on the local landscape contrary to Policy 3 and SG RD2 of the ALDP.
- 3.10 In conclusion and in the absence of any over riding other material considerations, the LRB resolved to uphold the decision of the Appointed Officer, thereby refusing Full Planning Permission for the reason cited below.

4.0 Reasons for refusal

1. The application fails to comply with Policy 3 Development in the countryside and Supplementary Guidance Rural Development 2: Wind farms and medium to large wind turbines of the Aberdeenshire Local Development Plan 2012. The proposal will have an adverse cumulative effect and add a further turbine to previously granted permissions in very close proximity.

Karen Wiles
Head of Legal and Governance

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 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

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.