

3. **LRB 382** – Notice of Review Against Refusal of Full Planning Permission for Erection of 1 Wind Turbine (Hub Height, 55.5m, 79.6m to Blade Tip) Substation and Associated Infrastructure at Land at Crimond Camp, Crimond, Fraserburgh – Reference: APP/2016/3254

- (ii) Agent's Response to Additional Information Requested

HALLIDAY FRASER MUNRO

P1252/05.01.02/PLANNING/SJC/nm

27 September 2017

ABERDEENSHIRE COUNCIL
BUSINESS SERVICES
LEGAL AND GOVERNANCE
WOODHILL HOUSE
ABERDEEN
AB16 5GB

For the attention of Frances Brown, Senior Committee Officer

Dear Frances

**LRB382 - NOTICE OF REVIEW UNDER THE TOWN AND COUNTRY
PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

**FULL PLANNING PERMISSION FOR ERECTION OF 1 WIND TURBINE (HUB
HEIGHT 55.5M, 78.6M TO BLADE TIP), SUBSTATION AND ASSOCIATED
INFRASTRUCTURE AT LAND AT CRIMOND CAMP, CRIMOND,
FRASERBURGH – APP/2016/3254**

I refer to your letter of 14th September enclosing additional responses in respect of the above LRB case, specifically responses from Aberdeenshire Council Planning and Environmental Health Officers.

The following response deals with the issues in turn.

A. Response from Aberdeenshire Council Environmental Health Officers:

The question posed by the LRB was:

... to provide a response on the proposed development taking into account the historical noise survey provided by the applicant (dated 2012) and whether updated information would be required when considering noise limits and shadow flicker which could impact the amenity of surrounding properties.

We note the response to by the Council's Environmental Health Service. In particular we would like to point out that the applicant's agent had been informed that further noise surveys would not be required during pre-application discussions with the Planning Service. They weren't therefore revisited at that time. Expectations were that further discussion with the Council's Environmental Health Officers would take place during the application process. Although requested by the Agent these discussions did not take place. However, we recognise that further agreement is necessary to move this appeal forward.

We would also like the LRB to note that the agent lodged a response to Environmental Health concerns **prior to the application being determined** (in an e-mail dated 8th March 2017 - attached) requesting an opportunity to discuss

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their concerns and solutions to those concerns. In summary, the agent's response to Environmental Health agreed that further information may be required, set out the difficulties in producing a completely new noise survey (particularly given that new wind turbines are now in existence locally), and proposed solutions for dealing with these difficulties.

On page 2 of the Environmental Health Response dated 12th September they have suggested some actions to deal with Environmental Health comments should the LRB be minded to grant the proposal. **These, in general, are very similar to the actions proposed by the Agent on 8th March 2017.** Had the agent been given the opportunity to discuss these further at that time then Environmental Health concerns could have been resolved. As indicated in our original submission no further opportunity for discussion was presented to the applicant during the application process and post their e-mail dated 8th March, evidenced by an e-mail from Environmental Health dated 23rd March 2017 (attached).

We are aware that the Planning Service has very recently indicated to the LRB that the Planning Service (assuming all other issues are to the LRB satisfaction) would be happy for the LRB to defer final approval of this application subject to a 3 way discussion between Planning Service/ Environmental Health and the applicant on noise and shadow flicker issues being successful. The approach has been suggested to allow for agreement on outstanding issues and on the basis that the matter was returned to the LRB in 6 months if the issues delegated (MoD and noise) are not resolved.

This would be in line with a deferral to allow the MOD objection to be resolved. As the LRB will be aware the Planning Authority normally gives an applicant 6 months to resolve an MOD objection (in order to commission technical reports and allow the MOD to consider these and revert to the Planning Authority). The original decision in these types of case is a "Minded to Grant" and after 6 months, or before, the application is returned to Committee for a final decision. If the MOD objection is not resolvable the application would be refused. We suggest that the same arrangement would be appropriate for the outstanding Environmental Health issues, especially given the lack of opportunity afforded to the applicant to deal with these during the application process.

On specific topics raised in Environmental Health response dated 12th September:

- **Noise limits at Moss-side** – the applicant has provided evidence of financial involvement by the owner and residents at Moss-side. This was done during the application process and within the timescales set by the case officer i.e. by 9th March. Environmental Health suggest that confirmation of a valid claim should be a Planning Service responsibility. That evidence is re-attached for information;
- **Proxy data for noise impact** – this is in line with the suggested solution by the agent;
- **Noise limits generally** – the intention of the applicant is to resolve these issues;
- **New residential sites** – this turbine application was lodged prior to applications for new housing at Reisk (the turbine application was lodged on 2nd December 2016 and the Reisk Housing application was lodged on 9th February 2017). Reisk as a new residential site could not,

therefore, have been taken into account in any of the surveys lodged with this application. Nor did the applicant have any opportunity to discuss how to consider this new development with Environmental Health during the planning application process. We suggest therefore that to refuse an application on this basis was not fair to the applicant without further opportunity for discussion;

- **Shadow Flicker** – we also note the comments on shadow flicker from Environmental Health. The agent has confirmed that shadow flicker for the existing properties has been correctly calculated and should not be an issue as the turbine can be turned off for these periods. Conditioning this is common practice and the applicant has no issues with accepting such a condition. Reisk housing development (which remains undetermined) was not a formal planning application at the time the turbine application was lodged so could not have been considered in any shadow flicker review. Again, however, further discussions with Environmental Health or the Planning Service on this issue would have been able to get to an agreed approach to potential shadow flicker, probably through a planning condition controlling times when the turbine was to be shut down.

We do not believe that any of the Environmental Health concerns are insurmountable and would request that the LRB allow time for these to be agreed and any further analysis undertaken if necessary.

B. Response from Aberdeenshire Council Planning Officers.

The question posed by the LRB was:

To request that the Planning Service provided a diagram and plot location for all existing and consented wind turbines in the surrounding area for the proposed development.

The response from the Planning Service has not provided that information. They state that the Planning Service is not able to produce a diagram to plot the sites as existing software does not permit a search and draw functions. Their response also states that the list of turbines provided by them include all approved turbines and that the Planning Service cannot confirm which permissions have expired.

In their list of 27 wind turbine applications 11 have been identified as refused or withdrawn. This leaves only 16 applications that have been approved;

- The 16 remaining approved applications relate to 23 turbines in total;
- However, applications 2011/2881, 2013/0205 and 2013/3092 (North Lothian) all relate to a single turbine with the latter two applications lodged to amend planning conditions on the existing consent – this reduces the number of approved turbines to a maximum of 21;
- No 'Notification of Intention to Develop' (NID) has been lodged for the remaining 4 planning applications (2006/3162 Mossview, 2010/3702 Crimmondgate/Lonmay, 2008/1222 New House Blackhills, and 2009/3692 Burnmill House – included in the list provided by the Planning Service). **The agent visited these sites prior to the application being lodged and none of these applications had progressed.** Given

their planning consents were issued between 2006 and 2011 (as per the Council's list provided) i.e. between 6 and 11 years ago we strongly suggest that none of these can now be implemented. The Planning Authority should be able to confirm this. It should also be noted that all of these applications are for small wind turbines ranging from around 18m in height to just under 25m. These are far less likely to be evident within the wider landscape. Removing these unimplemented turbines from the list of active approvals leaves only 18 turbines potentially in the area based on the Planning Service evidence;

- **The Council's evidence therefore clearly indicates that there are only 12 turbines of 50m or more in height within 5km of the site. Some of these are located close to the site. Turbines are therefore already evident within the landscape, some close by, and the proposed single turbine would not introduce these for the first time or impact unduly on the landscape if implemented;**
- We would also reiterate the brownfield derelict nature of the site and the opportunity that this development creates to help tidy the site up and make it safer for users.

It should be easy to plot the locations of these turbines on a plan for the purposes of the LRB in response to their original request. If the Planning Authority is not able to use their GIS to do this then we are willing to assist. Please confirm if you wish us to provide such a location plan?

The Planning Service also state in their response "it is highly likely that all turbines over 15m high will be built after their approvals due to the high costs involved during the application stage" and that the Planning Service are assuming that "all approved turbines would be built eventually". We disagree with these assumptions. Planning permission does not last forever and has a specific lifespan, normally only 3 years post consent. **It would not be possible for an applicant to implement a lapsed planning consent without applying for further consent. We therefore ask that the LRB disregard these assumptions stated by the Planning Service.**

Conclusion

The above statement provides clarity on some of the issues raised in the responses from both Environmental Health and Planning Service Officers. In summary we agree that additional evaluation is required to finalise certain elements of this proposal but suggest that this are best dealt with through further discussions between Environmental Health, the Planning Service and the agent. Given that the LRB, if willing to do so, could only issue a Mind to Grant decision at this stage in order that the MOD objection could be resolved then we believe that this also offers an opportunity to allow agreement on the other outstanding noise and shadow flicker issues. This could be achieved through further discussions as suggested by the Planning Service in their memo to the LRB advisor of 23rd September 2017 (attached).

Some of the issues raised in responses relate to information that simply couldn't have been provided when the application was lodged. The applicant, however, was not afforded the opportunity for dialogue on those prior to the application being refused. This LRB decision offers that opportunity and it would seem that

HALLIDAY FRASER MUNRO

the Council's Environmental Health and Planning Service are both open to that option.

As a result of the Council's approach to MOD objections any Minded to Grant decision would require a period of time to for the appellant to commission reports and agree with the MOD the removal of their objection. That period could also allow for discussion on Environmental Health issues to progress prior to a final decision being taken.

For the avoidance of doubt the applicant can only commit to dealing with the MOD objection as a result of a Minded to Grant decision. Resolving the MOD objection is by third party reporting that costs approximately £30,000. Procedurally therefore, post a Minded to Grant decision, the applicant would seek to resolve noise and shadow flicker issues and then the MOD issues. Clearly if one or other of these can't be resolved then the turbine would not go ahead and the appeal could be returned to LRB for a final decision. If this application was simply deferred without an indication of a decision one way or the other then the only issues that could be resolved would be those related to Environmental Health.

We therefore request that the LRB consider this appeal on the basis that a Minded to Grant would allow for any outstanding MOD or Environmental Health issues to be resolved prior to a final decision.

Yours sincerely,

**STEVE CRAWFORD
REGIONAL DIRECTOR OF PLANNING
FOR HALLIDAY FRASER MUNRO**

Enclosures:

- E-mail dated 8th March 2017 – Agent to Planning Service – suggesting potential solutions to noise assessment issues (*previously lodged as LRB ref CC5*)
- E-mail from Environmental Health dated 23rd March 2017 indicating their understanding that no further consultation is to take place (e-mail indicates that was a decision taken by Planning Service rather than Environmental Health) (*previously lodged as LRB ref CC6*)
- Confirmation of Financial Involvement (Mossie) – information lodged with the Planning Application before determination (*previously lodged as LRB ref CC9*)
- E-mail from Planning Service to LRB advisor dated 23rd September 2017 confirming agreement that deferral for further discussion would be acceptable

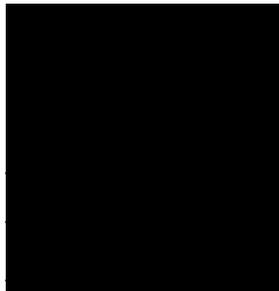
Moss-side
Crimond
Fraserburgh
AB43 8QJ

Lyn Farmer
Environmental Health
Planning and Environmental Services
45 Bridge Street
Ellon
AB41 9AA

Dear Ms Farmer

Ref: APP/2015/2648 Full Planning Permission for Erection of 1 No. Wind Turbine (height to tip 80m) at
Crimond Camp

We, Jon Smith and Terry Moran, are writing as the owners of Moss-side, Crimond, Fraserburgh AB43 8QJ to clarify that we have a financial involvement in the proposed wind turbine at Crimond Camp (APP/2015/2648). Moss-side should therefore have a higher noise limit (45dB) applied for the assessment of the proposed wind turbine at Crimond Camp. The financial involvement would be for the operational duration of the wind turbine so this higher noise limit should apply for this operational period.



*Jon Smith & Terry Moran
Moss Side, Crimond
Fraserburgh
Aberdeenshire
AB43 8QJ*

2nd March 2017

To whom it may concern

Dear Sirs,

**Proposed Wind Turbine
Crimond Camp, Mosston, Crimond, Fraserburgh**

We confirm that we are owner occupiers of the address above. We have owned and lived in this property since 1982 and as such have no intentions of moving from, or leasing this property to anyone else.

Yours,



Jon Smith

Steve Crawford

From: Lyn Farmer <lyn.farmer@aberdeenshire.gov.uk>
Sent: 23 March 2017 15:53
To: Rod McGovern
Cc: Sally Wood; Buchan Planning Apps; Darren Ross
Subject: APP/2016/3254 Crimond Camp

Good afternoon Rod,

I received your voicemail and can advise that any further queries you have in relation to the above application should be directed to the Planning Case officer. Environmental Health provided a response to the planning consultation and my understanding is that there will be no further consultation.

Best regards,

Lyn

Lyn Farmer
Senior Environmental Health Officer
Aberdeenshire Council

Main Office: 01569 768232

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FW: Response to EHS Crimond Wind Turbine APP/2016/3254

04 October 2017
14:41

Subject	FW: Response to EHS Crimond Wind Turbine APP/2016/3254
From	Rod McGovern
To	Steve Crawford
Sent	23 March 2017 16:26
Attachments	<<Mosston wind turbine planning letter 2.pdf>>

From: Rod McGovern [<mailto:admin@farmenergyconsulting.co.uk>]

Sent: 08 March 2017 12:49

To: Sally Wood (sally.wood@aberdeenshire.gov.uk)

Cc: Lyn.Farmer@aberdeenshire.gov.uk; Steve Crawford (Steve.Crawford@hfm.co.uk)

Subject: Response to EHS Crimond Wind Turbine APP/2016/3254

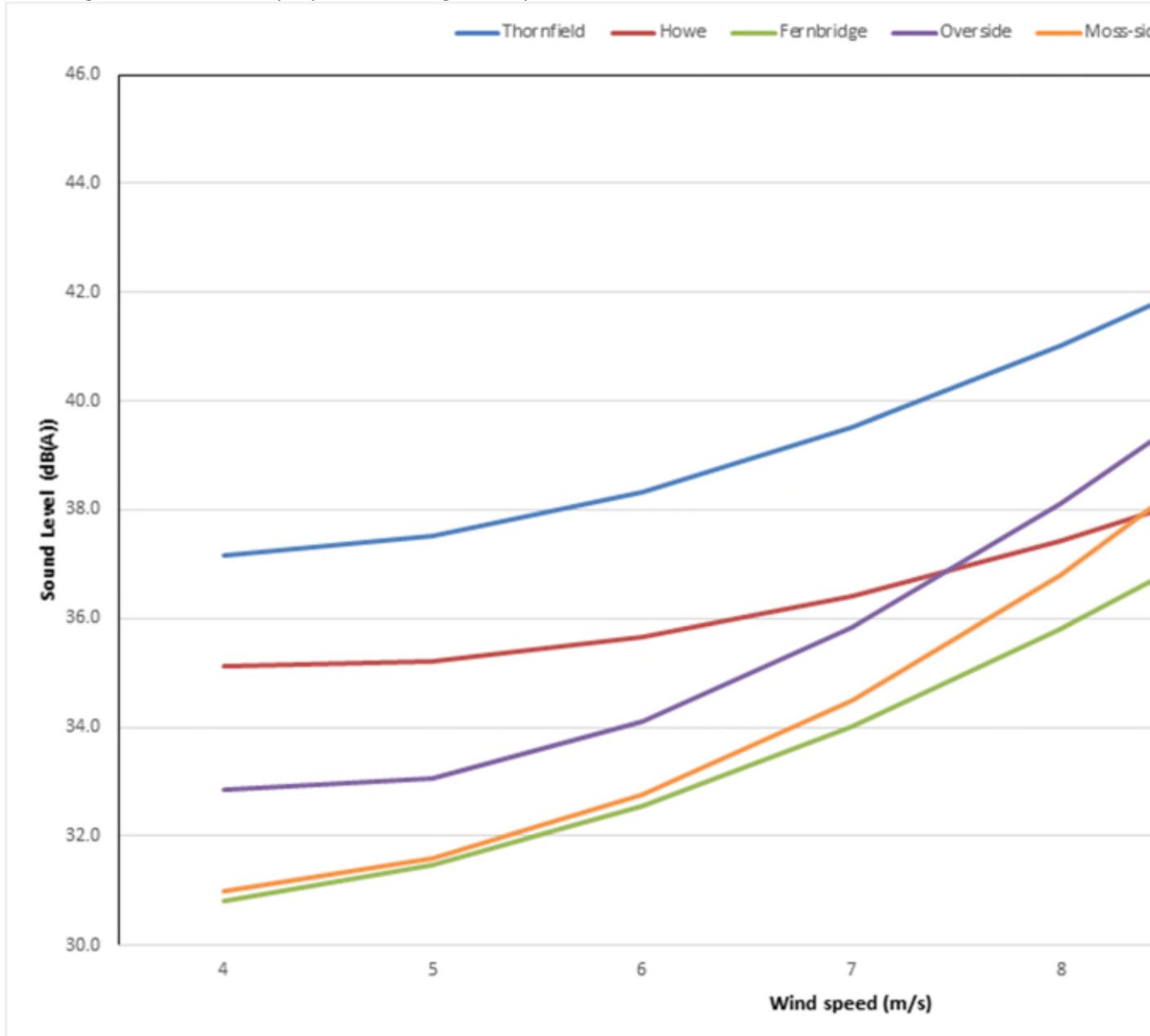
Hi Sally,

Our response to the Environmental Health Officers comments dated 23/2/17 are:

- The data collected for the noise assessment of this application was collected more than 5 years ago, when the first application for this turbine was being compiled. Since then we are aware that the guidelines have changed.
- Feedback for the previous application indicated that the key concern was the nearest residence: Moss-side. The owners are now involved in the development and the letter to confirm that they will not lease their house is attached. If the house is sold then the involvement goes with the property. If anything further is needed in this regard please let me know.
- Whilst it was realised that the levels measured at North Mosstown were high a check was made that compliance at North Mosstown would be achieved if the background levels collected at Moss-side were used instead.
- The Moss-side values are similar to the lowest of other background sound measurements in the locality, as shown by the graph below.
- No-one wants the turbine noise emissions not to comply after installation. Guidance is requested of the best alternative to re-monitoring the background sound levels prior to a planning decision, as the extra time and expense may not be worthwhile if the application is not successful. We suggest that:
 - As a temporary solution details are submitted showing that turbine sound immissions at North Mosstown in comparison to the lowest sound levels measured locally, from sites graphed below (Fernbridge from Overside and Greenwellheads APP/2011/1024)). More recent data from the Overside compliance monitoring, if available, could alternatively be used.
 - Levels for North Mosstown could be re-confirmed following approval and prior to installation. This was done for the application for turbines at Gellybrae APP/2013/2646.
- The above is suggested with the knowledge that re-monitoring background sound levels at North Mosstown will be made difficult due to the cumulative noise from the existing turbines. Use of a proxy site may be needed. Guidance is also sought on which proxy site would be considered acceptable.

- It is our thought that a local site that already has a background data set, such as those monitored for the Overside turbines, would be a good solution to this issue.

The proposed development at Reisk is at a greater distance than North Mosstown. An assessment will be included with the above analysis but it is assumed that if North Mosstown complies with current guidelines then the proposed housing development would also do so.



Any guidance to resolve these issues will be much appreciated.

Many thanks,

Rod McGovern

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*Jon Smith & Terry Moran
Moss Side, Crimond
Fraserburgh
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AB43 8QJ*

2nd March 2017

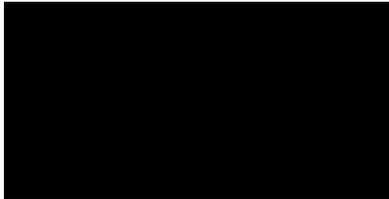
To whom it may concern

Dear Sirs,

**Proposed Wind Turbine
Crimond Camp, Mosston, Crimond, Fraserburgh**

We confirm that we are owner occupiers of the address above. We have owned and lived in this property since 1982 and as such have no intentions of moving from, or leasing this property to anyone else.

Yours,



Jon Smith

Crimond Wind Turbine

04 October 2017

14:31

Subject	Crimond Wind Turbine
From	Darren Ross
To	Mark Myles
Cc	Steve Crawford
Sent	22 September 2017 14:49

Hi Mark

Apologies but I do not have the LRB ref for the above.

I had a lengthy chat with Steve Crawford today. Steve is assisting the agent on this.

I understand that the LRB have, in effect, deferred consideration of the LRB for further info - inc the MoD and noise?

I'm not sure if this email is procedurally correct but can I ask if the Service (and assuming all other issues are to the LRB satisfaction) suggests that we would be happy for the LRB to delegate any granting subject to a 3 way discussion between DM/EH and the applicant being successful would this help move the issue on?

We would propose this on the basis that the matter was returned to the LRB in 6 months IF the issues delegated (MoD and noise) are not resolved.

This is an attempt to progress the determination of the proposal and is not, in any way, the Service withdrawing any reason for refusal.

Darren

Darren Ross

Team Manager (Development Management)

Planning and Building Standards

Infrastructure Services

Aberdeenshire Council

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Ellon

Tel 01467 538411

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