

Formartine Area Committee Report - 2 July 2019

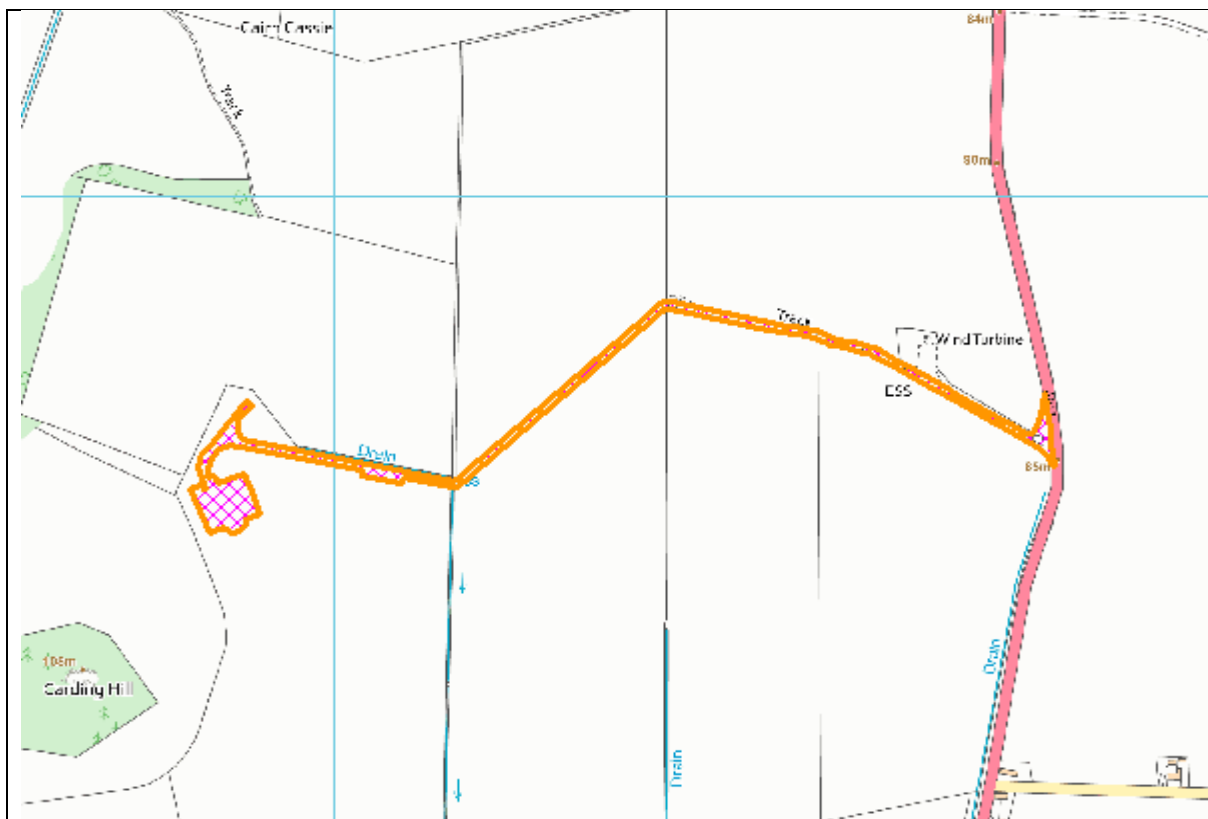
Reference No: APP/2017/2857

Full Planning Permission for Installation of Wind Turbine (Hub Height 59m, Total Height 99.91m) With Access Track and Hardstanding at Land at Cardinghill, Ellon

Applicant:
Agent:

Cardinghill Renewables Ltd
Farm Energy Consulting Ltd

Grid Ref:	E:394303 N:836758
Ward No. and Name:	Ellon And District
Application Type:	Full Planning Permission
Representations:	0
Consultations:	7
Relevant Proposals Map:	Aberdeenshire Local Development Plan
Designations:	AHMA
Complies with Development Plans:	No
Main Recommendation:	Refuse



NOT TO SCALE

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1. Reason for Report

- 1.1 This report has been referred to the Formartine Area Committee for consideration de novo by the Monitoring Officer in terms of Paragraph 7.2.b of the Council's Standing Orders.

The above application was considered by the Formartine Area Committee at their meeting on 21st May 2019.

The applicant had lodged a request to speak. However, due to an administrative error, the request was missed at Committee and the application was considered without giving the applicant an opportunity to speak to their application.

Requests to speak are a routine part of the Council's planning process. The oversight was therefore a procedural flaw in the consideration of the application.

The Council has a duty under common law to act fairly when determining planning applications, which is often referred to as conducting business according to the rules of natural justice. Therefore, the applicant had a legitimate expectation that his request to speak would be considered by the Committee.

Based on upholding the principal of natural justice, The Monitoring Officer's view is that there is a strong argument that the application should be considered anew. This approach would also help maintain public confidence that the Council treats parties fairly and follows its agreed Standing Orders.

The applicant has been advised and has confirmed that he wishes to make a request to speak.

- 1.2 In order to reconsider the application within 6 months of the decision taken on 21st May 2019, it is necessary for the Committee to agree to suspend Standing Orders in terms of Standing Order 8. This requires a two-thirds majority of members present and voting.
- 1.3 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1g of Part 2C Planning Delegations of the Scheme of Governance as there is an unresolved objection from a consultee.
- 1.4 This application received a Delegated Grant for Full Planning Permission at the meeting of the Formartine Area Committee on 20 November 2018 subject to the following:

“Detailed assessment of the proposed mitigation measures to be submitted to the Planning Service for consultation with MoD and the removal of their objection within a 6 month period”; AND

“Written confirmation being received by the Planning Authority from National Grid, NATS and Aberdeen International Airport indicating the withdrawal of their objections subject to the mitigation proposed by the applicant (including the payment of any sum in relation to radar blanking)”; AND

The addition of “a condition that the turbine can be programmed to deal with any potential issues caused by shadow flicker”; and 12 other previously agreed conditions. The application was being referred back to the Formartine Area Committee due to the end of the deferral period agreed at the 20 November Committee being reached and the lack of progress on the matters delegated.

- 1.5 Since the date of the 21st of May Formartine Planning Committee the Planning Service has received confirmation that the NATS objection can be resolved by way of planning condition. The Planning Service has also received a response from the Ministry of Defence maintaining their objection. Consequently, the report has been amended since the recommendation of the 21st May to reflect this update.
- 1.6 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report, their comments taken into account in the preparation of this report, and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

- 2.1 Full planning permission is sought for the erection of an Enercon E82 1.5mW wind turbine. The turbine proposed has a rotor blade length 45m with a hub height of 59m. The total height to tip of this turbine is 99.91m. **Appendix 1** contains the Site Plan and **Appendix 2** contains the Turbine Elevations.
- 2.2 The proposal comprises additional associated infrastructure including an access track and hardstanding.
- 2.3 The turbine is to be sited approximately 830m west of the A948 road, north of Ellon. It would be located part way up the existing hill at Cairnadailly, to the north east of the existing small area of woodland. The proposed access would pass through an area identified on the Scheduled Monuments Record (SMR) for a cropmark where a “large area of rig and furrow is visible as cropmarks on an aerial photograph”.

The site is also located approximately 480m south east of the Category 'B' Listed Arnage Castle.

2.4 The ground height above sea level for the turbine would be approximately 80m, with the hub height 139m above sea level, and the tip height approximately 180m above sea level. The wind turbine would be located 546m north of the dwellinghouse at Cairnadailly Cottage. The nearest settlement as identified in Appendix 8 of the Aberdeenshire Local Development Plan 2017, Ythanbank, is located approximately 4km south west of the development. Ellon is located 5.1km south east of the application site.

2.5 This site is within an area identified as Formartine Lowlands within the Aberdeenshire Council Landscape Character Assessment. The Landscape Character Assessment provides the following overview of the landscape character area:

“The Formartine Lowlands comprise a tract of gently rolling farmland that forms a backdrop to The Coastal Farmland identified in the Banff and Buchan Assessment (Cobham Resources Consultants 1997). Views of the seas are an aspect of its character but in most other ways it is similar to the other Agricultural Heartland areas identified in this settlement.”

2.6 Relevant planning history includes;

Approved Turbines within 5km of site.

- APP/2014/0165 - Erection of 100kW Wind Turbine (Hub Height 25.4 Metres, Total Height 35.9 Metres) and Associated Infrastructure
- APP/2013/0661 - Erection of 1No. 20kW (20.58m to Hub, 27.13m Total Height) Wind Turbine
- APP/2012/3572 - Installation of a Single 20kw Wind Turbine on a 20m Mast, Total Height 27.131m
- APP/2012/2650 - Erection of 1 No. Wind Turbine (height to hub 12.69 metres; height to tip 18.25 metres)
- APP/2012/0749 - Erection of 2 No. Wind Turbines (height to tip 27.1m)
- APP/2011/3596 - Erection of Wind Turbine (Hub Height 20m Total Height 27m)
- APP/2011/3551 - Erection of 1 No. Wind Turbine (Height to Blade Tip 34.2m)
- APP/2011/3461 Appeal Withdrawn - Erection of 2 Wind Turbines (Hub Height 20.6 Metres; Total height 27.1 Metres)
- APP/2011/3141 - Erection of 1 No. Wind Turbine (height to tip 21m)

- APP/2011/2987 - Erection of 1 No. C&F Green Energy 15kW Wind Turbine (height to tip 26m)
- APP/2011/2875 - Erection of 2 x 20kW (40kW) Wind Turbines (Total Height 27.13 Metres)
- APP/2011/2800 - Erection of 1 No. Enercon E48 800kW Wind Turbine (height to tip 79.6m)
- APP/2011/2468 - Appeal Allowed - Erection of 1 No. Enercon E-53 0.8MW Wind Turbine (height to tip 86.5m) Substation and Associated Access Tracks and Hardstandings
- APP/2011/1916 - Erection of 2 x CF20 20kW Wind Turbines Connecting Straight to Grid, 19.8m at Mast Height, 13.1m Rotor Diameter and 26.35m in Height to Blade Tip
Turbine 1:(E:393,754)(E:833,606)
Turbine 2:(E:393,827)(N:833,598)
- APP/2011/1757 - Erection of 1 No. C&F Green Energy 20kW Wind Turbine (Height to Blade Tip 27.131m) (E:391833)(N:833868)
- APP/2011/1677 - Erection of 2 No. ACSA A27 225kW Wind Turbines (45.45m height to tip), Turbine 1 at 391063 Eastings and 834787 Northings, Turbine 2 at 391064 Eastings and 835033 Northings
- APP/2011/1603 - Erection of 1 No. C & F Green Energy 20kW Wind Turbine (height to tip 27 metres) at Eastings 397614 and Northings 835825
- APP/2011/0692 - Erection 3 No. Enercon E70 2.3 MW Wind Turbines (Height to Tip of Blade 92.5 Metres) Turbine 1(E390,702) (N839,917) Turbine 2: (E390,302) (N840,021) Turbine 3 (E389,932) (N840,207) and Formation of Access Tracks, Hardstanding Areas and Formation of Borrow Pits
- APP/2010/3802 - Erection of 2 x CF15 15kW Wind Turbines (Total Height 20.4m)
- APP/2010/1800 - Erection of 2 x 15kW Wind Turbines on 15m Mast
- APP/2007/4747 - Erection of 3 No. Wind Turbines
- APP/2006/3013 - Erection of 6KW Wind Turbine on 9 Metre Mast
- APP/2006/0873 - Conversion of Steading to form 3 Dwellinghouses and Business Space (Class 4) and Erection of Domestic Wind Turbine

2.7 Information submitted in support of the application includes;

- Ecology Bird Survey
- Ecology Habitat Survey
- Ecology Survey Maps
- Soil Hydrology Report
- Soil Hydrology Plan
- Specification (Site Roads and Crane Hardstands) E-82, 57 to 83m ST
- Landscape Assessment

- Turbine Noise Data
- Revised Noise Assessment for the Proposed Wind Turbine at Cardinghill, Ellon (FEC Acoustics 01/10/18)

- 2.8 The proposal title was amended to reduce the hub height of the turbine from 61.3m to 59m as per the agent's request. Re-consultation was considered not to be necessary for the change in this instance.
- 2.9 Through a pre-application enquiry (ENQ/2017/1227) EIA screening was carried out on this site for 2 wind turbines. Under the terms of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, it was the opinion of Aberdeenshire Council as Planning Authority that the proposed development does not constitute EIA development.

3. Representations

- 3.1 No valid letters of representation have been received. 1 letter was received outwith the period for valid representations. The material content has been given due consideration.

4. Consultations

4.1 Aviation and Telecommunications

Aberdeen International Airport has objected to the proposal. Further correspondence in September 2018 revealed that they were liaising with NATS over their response. This revealed that they were inclined to share the approach of NATS who believe that mitigation of the proposed development is feasible. If an agreement can be made between the applicant and NATS then Aberdeen International Airport would likely be satisfied with the proposal. They are yet to confirm this in writing, although NATS have corroborated that such discussions have taken place in their correspondence.

Ministry of Defence (Defence Infrastructure Organisation) has objected to the proposal. The turbine will be 17.9km from, detectable by, and will cause unacceptable interference to the Air Defence (AD) radar at RRH Buchan.

"Close examination of the proposal has indicated that the proposed turbine would have a significant and detrimental effect on AD operations." They identify that the reasons for objection include, but are not limited to:

- a) Several of the turbines within the development being Radar Line of Site (RLOS)

- b) The quantity of the turbines visible to the radar at RRH Buchan would exceed our 'cumulative effect' thresholds."

Research into technical mitigation solutions is "currently ongoing and the developer may wish to consider investigating suitable mitigation solutions". If the developer can overcome these issues, then the MoD request that the turbine is fitted with a MoD accredited 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

Further correspondence with the MoD in September 2018 revealed that there were effectively two options available to the applicant. They could reduce the height of the turbine to 89m (to avoid radar line of site), or they could submit a technical mitigation report (undertaken by an aviation consultancy) demonstrating a suitable means of mitigation. The MoD are unable to comment on the acceptability of any mitigation, until they have reviewed such a report. The MoD would not agree to the use of a suspensive condition in lieu of such a report. The MoD have reiterated their objection in their latest consultation response dated the 7th June 2019 which is appended as Appendix 3.

NATS Safeguarding initially objected to the proposal, stating that the impact on the Prestwick Centre Air Traffic Control (ATC) is unacceptable. "The planned development site is inside controlled airspace, in an area frequently used by commercial flights operating in and out of Aberdeen Airport, as such the anticipated impact has been assessed as being unacceptable". Further correspondence with NATS in September 2018 has revealed that "commercial negotiations" are still taking place. NATS identify that they are "content that the scheme can be mitigated and the main outstanding matters are of a commercial nature". They outline that: "We would rather the application not be refused yet as we are working towards agreement and our expectation is that in the near future NATS would be supportive of conditions" covering this matter.

4.2 Community, Health and Corporate

Infrastructure Services (Environmental Health) initially objected to the proposal due to the lack of information with regard to noise monitoring. Should the other technical objections be resolved, or the application be supported this response would be essential in determining the acceptability of the development. The specific turbine in this location would have to be assessed to ensure that there was no adverse impact either in relation to the development proposed or cumulatively with other consented turbines. The noise levels, potential shadow flicker and any other impacts would be assessed against current standards. A noise impact assessment was received from the

agent on 1 October 2018. Following a further exchange of questions between the agent and Environmental Health, Environmental Health have confirmed that they are willing to remove their objection subject to conditions.

4.3 Natural and Built Heritage

Infrastructure Services (Archaeology) has outlined that the application would affect the archaeology sites NJ93NW0047 & NJ93NW0040, “cropmarks of rig and furrow indicating medieval or earlier human activity in this area.” They request the addition of a condition in relation to the requirement to submit a programme of archaeological works to the Planning Service for their written approval prior to ground breaking works on site. They also request the addition of a number of informatives to any approval issued.

4.4 Transportation and Infrastructure

Infrastructure Services (Roads Development) has no objection to the proposal subject to the addition of conditions and informatives on any approval issued. They identify that the proposed development would use the existing access which was created and used by previously approved planning permission reference (APP/2011/2468). The visibility at the junction of the existing access with the public road, (A948), is acceptable.

4.5 Other Consultees

National Grid has placed a holding objection to the proposal, which crosses their High-Pressure Gas Pipeline. Clarification was sought by the Planning Service in December 2017 as to the reasons for the objection, however no subsequent response had been received. A response was obtained in October 2018 which identified that the information they had requested pertained to details on the proposed traffic crossing the pipeline. This was to include details on the type of vehicles (plant/machinery), the weights, axle loads and frequency of use etc. Without this information, the holding objection remains in place. While they have indicated that potential mitigation can be provided at the crossing location, it is the responsibility of the agent to advise of the mitigation and prove its adequacy. Further correspondence between the agent and National Grid on 2 November 2018 has revealed that they would be content to remove their objection with a caveat that a crossing agreement shall be reached ahead of any works on site.

4.6 Updated Comments from Objecting Consultees

Since the Formartine Area Committee on 20 November 2018, the Planning Service has received any correspondence from NATS, (whom are linked to the Aberdeen International Airport by way of the mitigation covering both objection) that a condition could be used to secure the delivery of mitigation. It is considered the concerns raised by National Grid can also be dealt with by way of planning condition.

Clarification has been sought from MoD whom continue to object to the development as per the response set out in **Appendix 3** to this report.

5. **Relevant Planning Policies**

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate

change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In light of this, for proposals which are regionally or strategically significant, or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

5.3 Aberdeenshire Local Development Plan 2017

Policy P1 Layout, siting and design
Policy P4 Hazardous and potentially polluting developments and contaminated land
Policy E1 Natural heritage
Policy E2 Landscape
Policy HE1 Protecting historic buildings, sites and monuments
Policy C2 Renewable energy
Policy RD1 Providing suitable services

5.4 Other Material Considerations

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

No. 102 South and Central Aberdeenshire: Landscape Character Assessment (1998) – Scottish Natural Heritage

Scottish Government Planning Circular 2/2003: The Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosive Storage Areas) (Scotland) Direction 2003

6. **Discussion**

6.1 The main issues to consider in the assessment of this application are as follows;

- Principle of development
- Landscape and visual impact
- Cumulative impact
- Amenity
- Built and cultural heritage
- Ecology
- Aviation communication and infrastructure

Principle of development

- 6.2 In principle Aberdeenshire Council supports the installation of renewable energy facilities such as wind turbines. Policy C2 Renewable energy encourages wind energy developments where they are appropriately sited and designed. The spatial framework on page 74 of the Aberdeenshire Local Development Plan 2017 will be used to help identify the suitability of the site for a turbine development, in tandem with the Strategic Landscape Capacity Assessment for wind turbines. This spatial framework identifies that the site is indeed within an area with strategic landscape capacity for wind turbine development.
- 6.3 Other matters to be addressed include the impact of the turbine on the amenity of residents in the surrounding area, as well as the visual impact of the turbine on the Landscape Character of the area.

Landscape and Visual Impact

- 6.4 The Planning Service recognises that wind turbines will be visible from certain locations, visibility in itself is not a reason to refuse permission for wind energy developments rather the degree of impact that this visibility has upon receptors and the perception of the wider landscape.
- 6.5 Generally, it is important to note that no matter how accurately visualisations and photomontages are presented, they can only provide an indication of the potential visual impact of a wind energy development in a particular landscape. They cannot fully prepare for the full presence of such development when actually experienced on site in person. Commercial scale wind energy development tends to have a notably stronger presence in the field than visualisation techniques can convey.
- 6.6 The Aberdeenshire Local Development Plan 2017 identifies through Policy E2 Landscape that developments that have unacceptable effects through the scale, location, design or key landscape elements, will be refused by the Planning Service. Impacts of this nature can be individual or cumulatively with other developments. Development should not otherwise erode the characteristics of landscapes as defined in the Landscape Character Assessments produced by

Scottish Natural Heritage or have been identified as Special Landscape Areas of local importance.

- 6.7 As outlined previously in this report, the landscape character on the site is identified as being 'Agricultural Heartland' in the SNH Landscape Character Assessment, and the Aberdeenshire Local Development Plan Landscape Character Area is identified as being 'Formartine Lowlands'.
- 6.8 The Agricultural Heartlands are described as predominantly being an agricultural landscape of "generally intensive mixed farming on large fertile fields." Its character "relies less on historic features and land use practices than other landscapes". They are distinguished by their "patchwork of mixed agriculture and scattered woodland and by their numerous towns and villages, linked by a network of main roads and lanes." Specific reference is also made to the Formartine Lowlands with its "gently undulating coastal lowlands".
- 6.9 The Formartine Lowlands comprise a tract of gently rolling farmland that forms a backdrop to The Coastal Farmland identified in the Banff and Buchan Assessment (Cobham Resources Consultants 1997). Views of the seas are an aspect of its character but in most other ways it is similar to the other Agricultural Heartland areas identified in this settlement.
- 6.10 In this particular location, the landscape is considered not to be as sensitive to the visual impact of turbines, as the site appears to be within the area with strategic landscape capacity for wind turbine development as identified in page 74 of the Aberdeenshire Local Development Plan 2017. Other turbines do exist in the surrounding area, with the nearest being approximately 740m east of the proposed site. While this would constitute the tallest turbine in the vicinity, the choice of a single turbine as opposed to a larger number of smaller turbines potentially limits the visual impact on the site. The turbine would be visible across considerable distances, over 5km away in most directions, however this is unlikely to fundamentally change the characteristics of the landscape area. The conclusions of their supporting information also suggest that the visibility from the north east of the site would be limited somewhat as a result of the "significant screening" from the terrain. Residential areas within the surrounding area are dispersed in nature, and there are no settlements within 4km of the proposed development.
- 6.11 It is noted that the Strategic Landscape Capacity Assessment for wind turbines indicates that the Formartine Lowlands have a "low" capacity for turbines in excess of 80 metres in height, and no capacity for turbines in excess of 125m in height. It should be noted however that "low" does not mean none. This proposed turbine would be a single

turbine, and the additional height was proposed as an alternative to two turbines of a slightly reduced height which had been considered by the applicant at the preapplication enquiry stage. The additional height of the single turbine was considered to have less visual impact on the landscape than two turbines of only marginally smaller dimensions. In this particular instance, it is considered that a single turbine, appropriately sited, is capable of being considered under the low capacity provision.

- 6.12 The Agricultural Heartland is characterised in part by small villages and towns connected via main roads and smaller tracks, with pockets of woodland in predominantly rural areas. It is considered that the turbine would have substantially less visual impact in an area of this type, rather than in an open, flat expanse of land free of development.

Cumulative Impact

- 6.13 Within Aberdeenshire there are a large number of wind turbine applications which are either installed, approved or being considered. In relation to this specific site there are a number of turbines which can be viewed within the wider landscape. It is the case that commercial scale wind energy is now an established and intensifying element in the countryside that has altered or is further altering the perceived landscape character at a local and now increasingly at a region wide level.
- 6.14 The growing effect of smaller scale wind energy development needs to be taken into consideration, and it is the case that small scale wind energy development is becoming established in the north Aberdeenshire landscape. This category of development tends to have a more localised than district wide effect.
- 6.15 Of the 23 turbine applications that have approval within 5km of the site, only 7 would feature turbines with a height in excess of 30m. 3 turbines measuring 92.5m in height would constitute the tallest within 5km of the site, and those would be located within the Buchan area. Please note that of these 23 not all have necessarily been constructed. Given the proposal would involve the addition of a single turbine to the area, the cumulative impact would not be substantial. The topography does provide a limited degree of screening from the north east, in part due to the hills and woodland, however trees are not considered from a screening perspective due to the uncertainty over their permanence.
- 6.16 The view from Drumwhindle towards the proposed site would also include the developments of Skelmonae and Denmore, as well as the existing turbine at Cairnadailly in the view, however the cumulative impact is considered by the agent to be 'low'. Lammermuir and the Arnage Road Junction are considered to be the only other viewpoints

where the turbine is visually prominent on an individual basis, but the cumulative impact is considered to remain low.

General Amenity

- 6.17 The impact on the amenity of those living in the surrounding area must be fully assessed. This includes assessment of the likely noise levels, shadow flicker and the impact of the turbine on the nearest properties in terms of its size.
- 6.18 Environmental Health had initially objected to the application on the basis that they had insufficient information on the noise impact in order to fully assess the proposal. The original information submitted by the agent was based upon the existing turbine approved under application reference (APP/2011/2468) which is located almost 800m away from the proposed site. The agent subsequently submitted new noise monitoring information in October 2018. The agent concluded in this report that “the proposed turbine, operating at 1500kW and fitted with trailing edge serrations, will be a relatively quiet turbine.” It was outlined that “only one property has been shown to have downwind sound emissions exceeding 35dB(A), although this is only when assuming 2dB of uncertainty (twice that suggested by Enercon) and allowing 3dB for valley effect.”
- 6.19 The agent had initially proposed for the turbine to share the noise limit enforced by the condition under application reference (APP/2011/2468). This would be problematic for the Planning Service for two reasons. Firstly, the condition was not written specifically to that particular turbine, and therefore has not accounted for any other turbines. The condition would require to be amended as part of a separate application in order to enable any other turbines to operate within the same noise limits. Secondly, the applicant is different between the two applications according to the respective application forms. The former application identifies the Formartine Partnership as applicants, whereas Cardinghill Renewables are listed as the applicant on this occasion. It is suggested that the Formartine Partnership would have a 20% stake within this turbine, however this would not account for the ownership or operator for the remaining 80%. Having two different applicants on paper would suggest that the operators of the two turbines would be different. Furthermore, the enforceability of the existing noise limit condition on (APP/2011/2468) would be compromised by incorporating this turbine, as in the event of a noise breach, it would be difficult to identify which of the turbines was responsible for the breach, and consequently who to take enforcement action against.
- 6.20 It is considered that a separate noise condition that would relate to each application would be the most logical and straightforward means

of regulating the turbines. Environmental Health have identified, that following the answers to their follow up questions in relation to the noise monitoring information submitted in October 2018, that they are content to remove their objection subject to the addition of conditions on any approval granted.

- 6.21 The shadow flicker calculated in the submitted documents would suggest that shadow flicker from the turbine could potentially occur for a period of 270 hours (or 2.7% of the turbine operation) across 40 properties within 1.5km of the site. While the turbine could potentially be shut down during periods when shadow flicker is anticipated to impact upon residents windows, this does not factor in instances where the shadow flicker would not occur. The impact of overcast days, screening from buildings or vegetation or an absence of a window of 2m x 4m on the affected area of each property, would further negate any concerns of shadow flicker.
- 6.22 Comments were received which raised concerns over the 61 day per year impact of shadow flicker in relation to Arnage Castle. While this is identified in the agent's report, it also identifies that the impact would last for an average of 30 minutes per day, between the hours of 8am and 9am and largely be limited to the months of November and February. Given that these impacts don't account for cloudy days (which would obscure the sunlight), and days without wind, the actual impact is likely to be smaller than even the figures would provisionally suggest. The impact is therefore considered to be minor. It is recognised however, that this is a subjective conclusion.

Built & Cultural Heritage

- 6.23 Wind turbines by nature of their size have the potential to impact on both the setting and character of listed buildings and ancient monuments. Both locally and nationally important features require to be assessed to ensure that there is no adverse impact on those features identified.
- 6.24 Proposals for the erection of wind turbines should not be considered favourably if they will potentially obstruct views or affect the historic setting of listed buildings especially when located in a rural setting.
- 6.25 In this case the Category 'B' Listed Arnage Castle is the nearest affected structure by the turbine. It is located approximately 500m north west of the turbine site. It is considered that the turbine would not materially affect the setting of the building in this instance, as it would not be directly visible from the principle elevation of the castle. Located to the south east of the castle, it would not be directly placed in front of any of the elevations. Furthermore, the existing woodland cover that surrounds Arnage Castle and forms part of its setting, would provide a

degree of screening from any visual impact experienced. The turbine would not obstruct the view to the castle from the south-east as the castle is already obscured by the existing woodland that encloses its grounds. While the turbine would indeed be visible from certain windows of the castle, the right to a view from the castle is not a consideration for the Planning Service, in the same way that it is not a consideration for any other dwellinghouse. It is considered that the turbine would be a peripheral fixture in the landscape in relation to the castle; that is not sufficiently close in proximity as to impact upon the setting of the castle or its grounds (which are enclosed within the woodland).

- 6.26 The SMRs in the surrounding area relate purely to archaeological sites. Archaeology have already indicated that they have no objection to the proposal subject to the addition of conditions and informatives to any approval issued. The proposal is therefore considered to comply with Policy HE1.

Ecology and Hydrology

- 6.27 The application site is located within an actively farmed field within improved grassland. As such, the construction of the turbine is unlikely to give rise to any adverse impact upon habitats or species of conservation value, or the local hydrology, including private water supplies. In relation to birds, the turbine is not located close to any sites of importance for species that would be affected by a development of this nature. The proposal therefore conforms to Policy E1 Natural heritage

Aviation, Communications and Infrastructure

- 6.28 A main issue with applications of this type relates to the impact upon radar and communications. Policy C2 Renewable energy requires that wind development should not adversely impact upon communications installations, radar or air traffic control systems of both the National Air Traffic Service, local Airport (Aberdeen International Airport) and the Ministry of Defence (MoD). There has been a significant number of wind turbines of varying height built and approved within the Aberdeenshire Council area. In certain parts of Aberdeenshire, the number of turbines has reached saturation point in terms of the impact upon air traffic and radar systems as any further impact or 'clutter' caused by wind turbines appearing on radar screens would no longer be manageable.
- 6.29 At present, there are outstanding objections from the MoD, NATS, Aberdeen Airport and National Grid. The objections are on the basis of interference that the turbine would cause to the air defence radar at RRH Buchan, as well as the Air Traffic Control Centre at Prestwick.

MoD also require the provision of a flashing light at the top of the turbine in the event of an approval.

- 6.30 The Planning Service has since had further correspondence with these consultees after the application was put before the Area Committee in September. The stance from NATS and Aberdeen International Airport has softened. They believe that an acceptable form of mitigation is possible and are willing to work with the applicant/agent in order to achieve this. NATS have identified a preference to defer any approval of the application until such time as the mitigation measures have been agreed but have now responded stating they would be happy with a planning condition.
- 6.31 The MoD acknowledge that the applicant has chosen to propose technical mitigation to the MoD rather than reduce the height of the turbine. In order to remove their objection, they require a technical report produced by an aviation consultant to be submitted for their review. Only if the proposed mitigation outlined in the report was deemed to be acceptable to the MoD, would a condition applied to any approval be considered an amenable approach in the determination of the application.
- 6.32 National Grid had not received any contact from the applicant at the time of writing this report, but confirmed that mitigation would be possible once they know further details of the vehicles crossing their pipelines, and where. It is the understanding of the Planning Service that one of these means of mitigation may involve the installation of an underground concrete slab, however mitigation measures would be agreed (where required) prior to the issuing of any approval of the application.
- 6.33 Wind farm proposals should be set back from roads and railways to at least the height of the turbines, to assure safety. This proposal exceeds these requirements. Previous turbine developments have resulted in some damage to the road network during the construction process. Any degradation of the road surface attributed to the development identified and remedied and therefore a dilapidation survey of the road condition is required to be carried out immediately prior to the works starting and another survey once works completed. This will ensure that should any damage to the road network occur this will be repaired, at the expense of the developer, to the standard identified in the first survey.
- 6.34 Infrastructure Services (Roads Development) are satisfied with the existing proposed access road for the purposes of the erection of the turbine and have not objected to the proposal subject to the addition of conditions and informatives on any approval issued.

Conclusion

- 6.35 The proposal has been considered in relation to all relevant planning matters including the key Policy C2 Renewable energy in the Aberdeenshire Local Development Plan 2017. The proposal is considered to broadly meet the requirements of all relevant policies on the basis that Environmental Health are satisfied with the noise levels predicted, and the low impact on the amenity of residential properties in the surrounding area. While the turbine would be a visual presence in the landscape, there is scope for a large turbine in the Formartine Lowlands where appropriately sited, and its presence would not have a significant detrimental impact on the character or setting of any Listed Buildings or monuments in the area. While there are outstanding consultee objections, there are indications that these can be overcome through acceptable mitigation measures. It is therefore proposed that the application is given a delegated grant of planning permission. The Planning Service would then allow a period of 6 months from the committee date within which to resolve the remaining consultee objections. Failure to resolve these matters within 6 months would then result in the application being referred back to the Area Committee with a recommendation of refusal.
- 6.36 Since the Formartine Area Committee on 20 November 2018, the Planning Service has received no information on the proposed mitigation measures for consultation with the MoD from the applicant or agent. The failure to resolve the outstanding matters within the agreed 6 month period has now resulted in the application being referred back to the Formartine Area Committee with a recommendation of refusal.

7 Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in

accordance with the Development Plan unless material considerations justify a departure.

9. Sustainability Implications

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10. Departures, Notifications and Referrals

10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

Policy C2 Renewable energy

*It should be noted that this is a departure at present due to the objections of consultees. Should these objections be resolved within the 6 month period proposed, then the application would no longer be considered a departure.

- 10.3 The application is a Departure from the valid Local Development Plan. The application has been advertised in the Johnstone Press. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.
- 10.4 The application falls within one of the categories contained in the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2003, if Members are minded to support this proposal it will be necessary to refer the application to the Scottish Government in line with notification procedures where a statutory consultee (MOD and NATS in this instance) have objected to an application.
- 10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11. Recommendation

11.1 REFUSE for the following reason:-

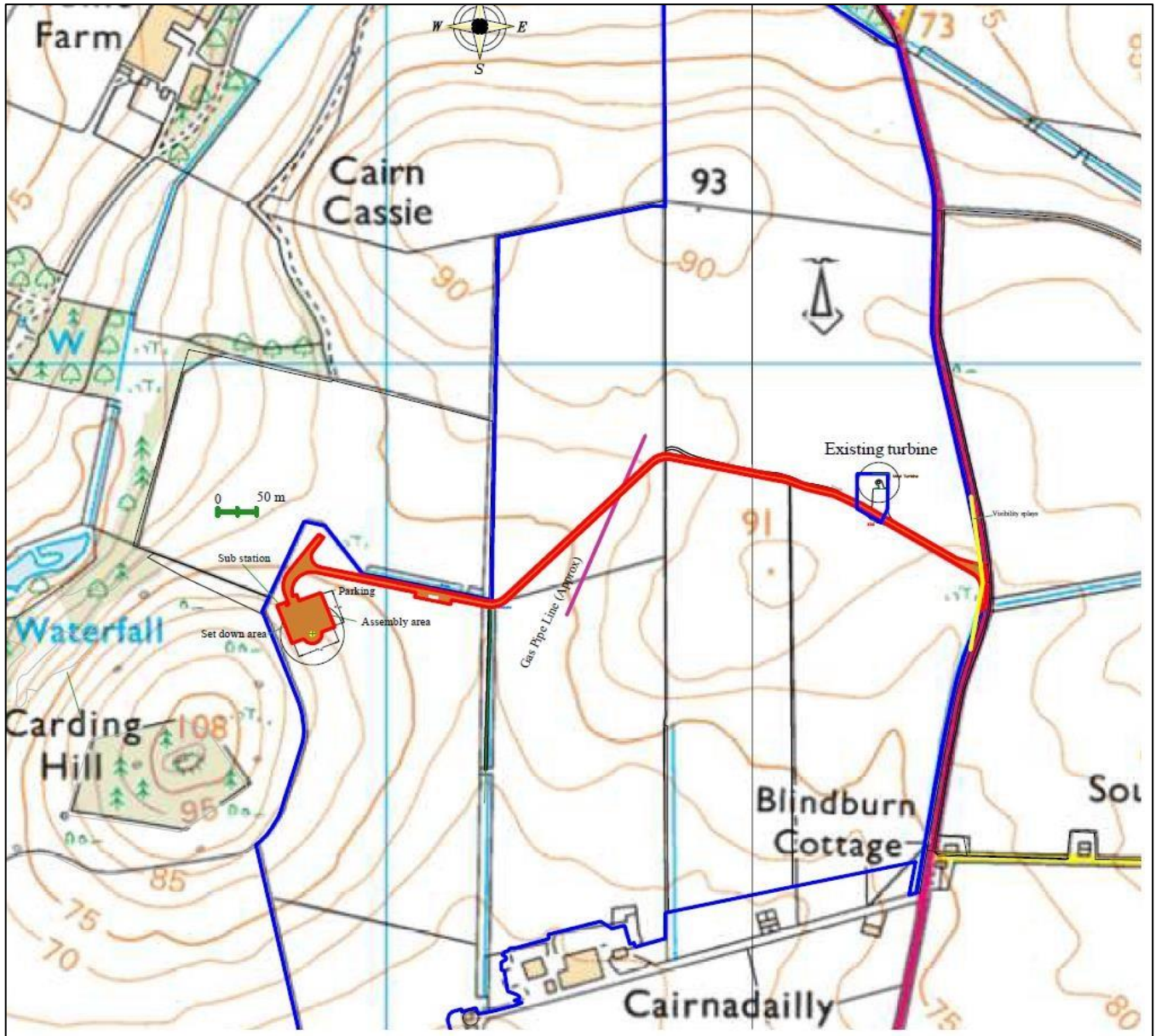
01. The applicant has failed to demonstrate suitable mitigation measures in order to resolve the outstanding concerns raised with respect of the Military Aviation consultees regarding air safety. The proposal therefore may have a detrimental impact on air traffic control systems which is contrary to Policy C2 Renewable Energy of the Aberdeenshire Local Development Plan 2017.

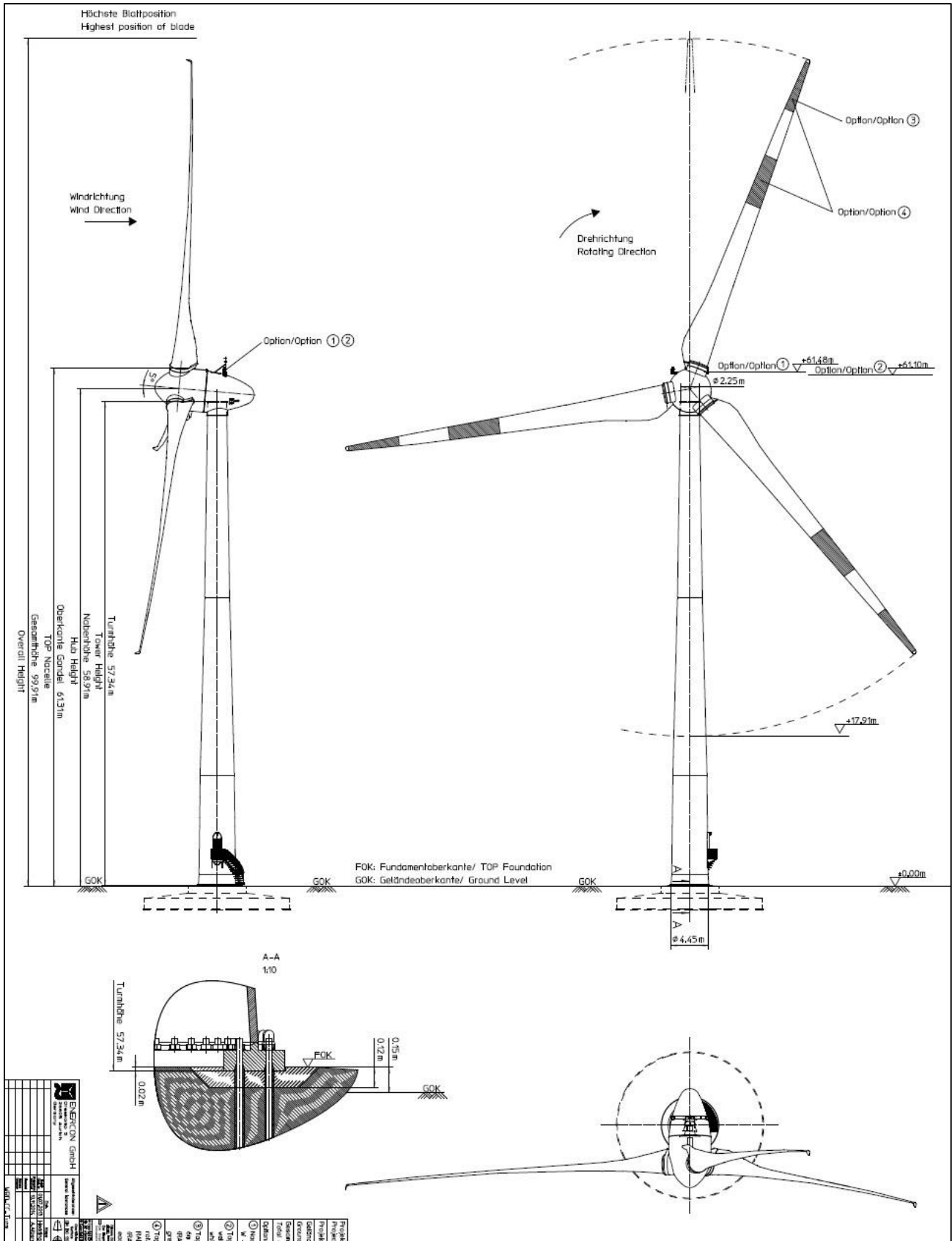
Stephen Archer

Director of Infrastructure Services

Author of Report: Rory Hume (amended by Fiona M. Stewart, Senior Solicitor
(Democratic Services))

Report Date: 12 June 2019





APP/2017/2857

Appendix 3

Subject: 20190607-Cardinghill Wind Turbine-App Ref. 2017/2857- MOD Position-Update

Dear Mr Hume,

The Proposed Installation of a Wind Turbine (Total Height 99.91m) With Access Track and Hard Standing on Land at Cardinghill, Ellon
Planning Application Reference: APP/2017/2857

DIO Ref. 10041900

I am writing in response to your recent telephone enquiry concerning the safeguarding position of the Ministry of Defence (MOD) with respect to the above application.

As you are aware, following the MOD objection to this application, we have had dialogue with the applicant's aviation consultant in which we have identified that a wind turbine with a maximum blade tip height of up to 89m could be erected at this location and would not be in line of sight of the air defence radar at Remote Radar head (RRH) Buchan. The applicant indicated that they would prefer to address the impact of this proposed development upon the air defence radar by means of a technical mitigation. The MOD has not received any further information from the applicant relating to the provision of a mitigation. As such, I can confirm that the MOD maintains the objection detailed in our response letter of the 9th January 2018 to this application.

I trust this clarifies our position on this matter.

Regards,

Jon Wilson | Senior Safeguarding Manager | Safeguarding | Estates |
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Sutton Coldfield | West Midlands | B75 7RL |

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