

8. **LRB 527** – Notice of Review Against Refusal of Full Planning Permission for Erection of 2 Wind Turbines Without Compliance with Conditions 1 (Duration of Consent) and Condition 3 (Restoration of Site) of Planning Permission Reference APP/2016/1111 – Reference: APP/2021/0121.

(ii) Supporting Documents as submitted by the Planning Service.



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Application Reference: APP/2016/1111

TO: Green Cat Renewables
Stobo House
Midlothian Innovation Centre
Edinburgh
EH25 9RE

FOR: Renewable Energy Ventures
40 Morningfield Road
Aberdeen
AB15 4AQ

In pursuance of the powers exercised by them as Planning Authority, this Council having considered your application for the following:

Full Planning Permission for Erection of 2No. 2.3MW (58.9m to Hub and 99.9m to Blade Tip) Wind Turbines, Non Compliance with Condition 2 (Make, Model, Design, Power Rating and Sound Power Level of Turbine), Condition 12 (Sound Power Levels) and Condition 14 (Noise Level) of Planning Permission APP/2013/1156 for Erection of 2 No. 2.3MW (64m to Hub Height, 99.5m to Blade Tip) Wind Turbines, Formation of Access Track and Sub-Station at Land at Paul Matthew Hill, Johnshaven, Aberdeenshire

and in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application, do hereby give notice of their decision to **GRANT Full Planning Permission** for the said development subject to compliance with the following conditions:

- (1) The development hereby approved is consented for a period from the date of this consent until the date occurring 25 years after the date of the final commissioning of the development. Written confirmation of the date of final commissioning of the development shall be provided to the planning authority no later than 1 calendar month after that event.

Reason: to define the duration of the consent.

- (2) Except where otherwise provided for, or required by the terms of this permission, the permission relates strictly to the dimensions and specifications of the turbine infrastructure as provided for in the application (including the make, model, design, power rating and sound power level of turbine to be used) and to all mitigation measures as identified in the Environmental Appraisal, and any amendment thereof shall be subject to the express prior

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TITLE DEEDS**



written approval of the planning authority. For avoidance of doubt the turbines proposed shall:

- not exceed 99.9 metres in height to blade tip
- be finished in a non-reflective pale grey semi-matt finish to be agreed in writing with the planning authority prior to erection of the wind turbines
- not display any advertising on any part of the turbines other than those required for health and safety reasons unless otherwise agreed in writing with the planning authority.
- rotate in the same direction.

Reason: to ensure the development is carried out in accordance with the submitted details and in the interests of the visual appearance of the development.

- (3) Unless otherwise agreed in writing with the planning authority, within two years of the commissioning of the wind turbines (when energy is produced and sold from the development), a fully detailed decommissioning, restoration and aftercare scheme for the ultimate reinstatement of the site shall be submitted to, and be approved in writing by the planning authority. Such plan shall be subject to review in the light of monitoring and at minimum 6 months prior to the expiry of this permission.

Within 12 months of the expiry of this permission, the wind turbines and all ancillary infrastructure and equipment (including all buildings, structures, hard standings, and tracks, etc.) shall be dismantled to ground level and removed from the site, and the site and the immediate surroundings shall be restored all in accordance with the decommissioning, restoration and aftercare scheme referred to in condition 3.

Reason: to secure appropriate restoration of the site after the operational lifetime of the development in the interests of visual amenity and landscape protection.

- (4) Prior to commencement of development, details shall be submitted to and approved in writing by the planning authority regarding evidence of a bond or other similar financial provision put in place to cover all decommissioning and site restoration costs on the expiry of the permission. The required bond or equivalent shall:
- a) be based on an outline decommissioning method statement or similar (to include the decommissioning, restoration and aftercare of the site including removal of the development infrastructure, treatment of ground surface, environmental management and timing of works, etc.); and
 - b) include documentary evidence to demonstrate that the amount of bond or financial provision is sufficient to meet the full estimated cost of decommissioning, dismantling, removal, disposal, site restoration, remediation and all other incidental work and professional costs; and
 - c) include details to ensure that the proposed finance arrangements will be



maintained and subject to periodic review throughout the lifetime of the development.

Thereafter, the development shall not commence until written evidence has been provided to the planning authority to confirm that the agreed bond or financial provision has been put in place.

Reason: to ensure that there are sufficient funds available for the full costs of de-commissioning and site re-instatement and restoration.

- (5) No development shall commence until details have been submitted to and approved in writing by the planning authority regarding:
- a) the design, external appearance and material finish and colour of all buildings and structures to be erected, including the control building; and
 - b) the site layout arrangements for the temporary construction compound.
- Thereafter, the development shall be implemented in accordance with those approved details.

Reason: to safeguard the visual amenity of the site and surrounding area.

- (6) In the event that either turbine fails to produce electricity supplied to a local grid for a continuous period of six months then it shall be deemed to have ceased to be required and, unless otherwise agreed in writing with the planning authority, the wind turbine and ancillary equipment shall be dismantled and removed from site, and the ground fully reinstated to the specification of the planning authority.

Reason: to ensure the re-instatement of the site in a timeous manner, in the interests of the amenity and appearance of the site.

- (7) No part of any concrete foundations and no construction activities shall be within 20 metres of any drain or water course. Prior to the commencement of development details of any new access track drainage shall be submitted to and approved in writing by the planning authority. Track drainage should not discharge to a watercourse but to Sustainable Urban Drainage Systems (SUDS).

Reason: to ensure the provision of an acceptable drainage system in the interests of the amenity of the area.

- (8) Prior to the commencement of development, a site specific construction method statement, including details of waste, surface water run-off, road construction, the timing of works and environmental management, shall be submitted to and approved in writing by the planning authority. The approved construction method statement shall be implemented in full during construction.

Reason: in the interest of landscape and environmental protection.



- (9) Prior to commencement of development, a comprehensive traffic management plan shall be submitted to and approved in writing by the planning authority. The plan shall include:

- a road condition survey for the access routes for general construction traffic to the site from the A90 or A92;
- a route assessment for the delivery of turbines components to the site including details of necessary road improvements, road widening, passing places etc.;
- detailed routeing plans for HGV traffic to the site;
- timetabling for routing and any required roads improvements;
- full details and timetabling of temporary works associated with traffic movements and reinstatement / removal of temporary works.

Reason: in the interests of road safety and traffic management.

- (10) Prior to commencement of development the access shall be constructed to the Council's Standards for Road Construction Consent and Adoption and surfaced in bituminous macadam or asphalt for the first 10 metres from the road. The access shall be internally drained and formed in such a way to prevent any flow of surface water either onto or from the public road.

Reason: To ensure the provision of a means of access to an adequate standard in the interests of road safety.

- (11) Prior to commencement of development visibility splays of 160 metres in each direction along the channel line of the public road has been provided from a point 2.4 metres measured at right angles from the existing edge of the carriageway surface along the centre line of the approved access in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other means of enclosure or obstructions within the splays shall be removed and relocated out-with the splays. Once formed, the visibility splays shall be permanently retained thereafter and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

Reason: To enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

- (12) The turbine shall be designed to permit individually controlled operation, or cut-out, at specified wind speeds in order to enable, and ensure, compliance with the noise level criteria stated in these conditions.

Reason: in the interests of residential amenity



- (13) At wind speeds not exceeding 12m/s, (referenced to a height of 10m above ground level, at the location of the turbines), the wind turbine noise level at each noise sensitive property shall not exceed the levels in Tables 1, except where the level in the table exceeds the lower fixed limit (35dB LA90,10min. for daytime and quiet daytime hours, and 38dB LA90,10min. for night hours), and also exceeds the measured background noise level, LA90,10min by 5dB or more, in which case the permitted level will be the lower fixed limit or the background noise level plus 5 dB, whichever is the greater.

The condition shall only apply to dwellings vacant, or occupied, and existing at the date of this Planning Permission.

Table 1

Location	Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min					
Property Name	Map Ref	4	5	6	7	8
9	10	11	12			
Broomeknowe	377885,768929		28	31	34	37
38	39	39	39	39		
Muirton	378032,768807		26	29	32	35
36	36	36	36	36		
Forth Steading	377106,770094		26	29	32	35
36	36	36	36	36		
Forth	377061,770105		26	29	32	35
36	36	36	36			
Forth Cottage	376956,770060		26	29	32	35
36	36	36	36	36		
Jackston Cottage		377234,767765		20	22	25
28	29	29	29	29	29	

- a) Note: for all properties not specified above the predicted noise from the turbine will be calculated using the propagation model in ISO 9613-Part 2 incorporating the recommendations contained in the Institute of Acoustics Good Practice Guide dated May 2013.
- b) Note: The noise levels listed in Table 1 are derived from the noise assessment submitted with the application which was based on use of 50m and 30m height measured wind speeds with a standardised correction to V10 wind speed to accommodate for wind shear.
- c) Note: The Background Noise Level in this condition means the level determined at each property, or at a representative property agreed with the Planning Authority, at the time of the Background Noise Level survey submitted with this application, as derived from the regression analysis polynomials stated in the noise assessment submitted as part of this application, or the background noise levels, determined separately for



day-time hours, quiet day-time hours and night hours, at the time of subsequent monitoring required as a result of these conditions, whichever is the lower.

Reason: in the interests of residential amenity

- (14) The Wind Turbine Operator shall log wind speed and wind direction data continuously and shall retain the data which has been obtained for a period of no less than the previous 12 months. The data shall include the average wind speed in metres per second for each 10 minute period. The measuring periods shall be set to commence on the hour and in 10 minute increments thereafter. The wind speed data shall be made available to the Planning Authority on request. The data shall be provided on a Microsoft Excel spreadsheet in electronic format or other format agreed with the Planning Authority. The wind speed shall also be normalised to a 10m reference height.

Reason: in the interests of residential amenity

- (15) The Wind Turbine Operator shall employ an independent consultant, approved by the Planning Authority, to measure, at the operator's own expense, the level of noise emissions from the wind turbines within the first year of the operation of the turbines, and every two years thereafter, unless and until the Planning Authority extend the period or determine that continued compliance monitoring is no longer required. The measurement procedures, which may include filtering data according to wind direction, shall be agreed with the Planning Authority prior to commencement, (see 'Informative' section below for further detail). The results of any measurement exercise shall be forwarded to the Planning Authority as soon as practicable after the completion of the monitoring exercise. Unless otherwise agreed with the Planning Authority the turbines shall be switched off during part of the monitoring period to permit reliable background noise level data to be determined at the range of wind speeds from 4m/s to 12m/s.

Reason: in the interests of residential amenity

- (16) At the request of the Planning Authority, following a verified complaint to Aberdeenshire Council relating to noise emissions from the wind turbines, the Wind Turbine Operator shall shut down the turbines no later than 24 hours after the receipt of the request and, at his own expense, employ an independent consultant, approved by the Planning Authority, to assess the level of noise emissions from the wind turbines (inclusive of existing background noise). This condition shall not prevent the turbines from being operated temporarily for acoustic testing and measurement in a manner agreed with the Planning Authority and outlined below



An assessment of amplitude modulation of noise from the turbines may be also be required, and shall be carried out in accordance with the terms specified by the Planning Authority and shall also be carried out at the expense of the Wind Turbine Operator.

For noise other than amplitude modulation the LA90 index shall be used over a minimum of 20 periods each of 10 minutes duration. At least 10 of the periods of measurement shall be made at wind speeds between a wind speed specified by the Council and a wind speed of not more than 2 metres per second above the wind speed(s) specified by the Council. At least 10 measurements shall be made at wind speeds between the wind speed specified by the Council and a wind speed not less than 2 metres per second below the wind speed(s) specified by the Council. Measurements of noise emissions shall, so far as is reasonably practicable, be made in consecutive 10-minute periods provided that they fall within the wind speed range defined in this clause. Sufficient data points are required for the determination of the sound pressure levels at each of the required wind speeds and at wind directions agreed with the Planning Authority for each receptor location.

The LA90, 10min noise level from the wind turbines (inclusive of existing background noise) shall be correlated with wind speed and derived using a Best Fit Curve and, where appropriate, allowing for a correction for the influence of the background noise level as described on page 88 of the ETSU-R-97 document, which will necessitate measurement of the background noise level in the absence of the turbine operating. Measured wind turbine noise levels and background noise levels shall be referenced to derived 10 metre height wind speeds. The measurement procedures, including any data filtering parameters, shall be agreed with the Planning Authority prior to commencement, (see 'Informative' section below for methodology).

Unless otherwise agreed with the Planning Authority the assessment shall be completed and report submitted to the Planning Authority within 3 months from the date of notification by the Planning Authority that monitoring is required.

Should the Wind Turbine Operator fail to demonstrate to the satisfaction of the Planning Authority that noise levels referred to in these conditions have not been exceeded, the turbines shall remain shut down, or operated in accordance with a mitigation scheme agreed with the Authority until such time as compliance with the noise limits has been demonstrated to the satisfaction of the Authority.

Reason: in the interests of residential amenity

- (17) At the request of the Planning Authority the Wind Turbine Operator will be required to carry out an assessment for tonal noise in accordance with the procedure recommended in Section 6 of the document "The Assessment &



Rating of Noise from Wind Farms" (ETSU-R-97) i.e. the procedure based on the Joint Nordic Method.

Where the tone level above audibility is greater than 2dB a tonal penalty shall be applied to permitted noise levels, in accordance with figure 16 of the document; so that the permitted levels specified in these conditions will be reduced by the tonal penalty.

Reason: in the interests of residential amenity

- (18) The turbines must be programmed to shut down during times and weather conditions when shadow flicker is predicted to occur.

Reason: in the interests of reducing impacts on residential properties and addressing any differences in predicted and actual shadow flicker resulting from the development.

- (19) All turbines shall be fitted (at the highest practical point) with infrared lighting to the current specifications of the Ministry of Defence at the time of the erection of the turbines. Confirmation of the proposed lighting arrangements to be installed shall be submitted to and be approved in writing by the planning authority prior to any light installation. Thereafter, the development shall be implemented in accordance with those approved details.

Reason: in the interests of public and military aviation safety and landscape protection.

- (20) No development shall commence until written evidence has been submitted to and approved in writing by the planning authority demonstrating that the applicant has submitted the following information to the Safeguarding Officer, Safeguarding Wind Energy, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL to confirm for the turbines:
- a) the date construction starts and ends;
 - b) the maximum height of construction equipment; and
 - c) the latitude and longitude of each turbine.

Reason: in the interests of public and military aviation safety.

- (21) The developer shall secure the implementation of an archaeological watching brief to be carried out by an archaeological organisation acceptable to the planning authority, during any ground-breaking and development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of reference for the watch brief will be supplied by the Aberdeenshire Archaeology Service.

The name of the archaeological organisation retained by the developer shall be given to the planning authority in writing not less than 14 days before development commences.



Reason: to record items of archaeological interest.

Informatives

- (1) This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period. [See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)].
- (2) The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start the development. Failure to do so is a breach of planning control and could result in the planning authority taking enforcement action. [See Sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)]. Such notification shall contain the information set out in the 'Notification of Initiation of Development' Notice as appended.
- (3) As soon as possible after the development is finished, the person who completed the development must write to the planning authority to confirm that the development has been completed. [See Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)]. Such notification shall contain the information set out in the 'Notification of Completion of Development' Notice as appended.
- (4) Display of notice: A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- (5) Should any badger setts be discovered during the construction period then all work must stop immediately and the Planning Authority and Scottish Natural Heritage consulted. Work should not recommence until such times as appropriate mitigation measures have been agreed in writing with Scottish Natural Heritage.

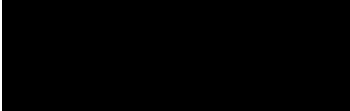
Reason for Decision

The application proposing non-compliance with conditions relating to a proposed amended wind turbine model has been considered in relation to all relevant planning matters including the key ALDP Policy 3: Development in the countryside of the Aberdeenshire Local Development Plan (2012) and the supplementary guidance SG Rural Development 2: Wind Farms and Medium to Large Wind Turbines. The proposed wind turbines remain well scaled to the particular landforms and landscape characteristics. The proposed change in wind turbine model will have an impact on the character of the local area both individually and cumulatively and an impact from



some viewpoints, however, this impact is not considered significant and is acceptable. Any comments received from consultees have been assessed and with appropriate conditions can be resolved therefore the proposal complies with the Local Development Plan.

Dated: 8 July 2016



Head of Planning and Building Standards

List of Plans and Drawings

Reference Number: KM879115 Elevations

Reference Number: APP-001 Site Plan



NOTES

- (i) In the case of any permission granted, this does NOT incorporate any building warrant for any operations or change of use which may be required under the Building (Scotland) Act 2003. This must be obtained separately from the Council prior to the start of building operations.
- (ii) Any permission granted does not incorporate any listed building consent which may be required. This must be obtained separately prior to the start of building operations.
- (iii) Any permission granted is without prejudice to any further consents required from Aberdeenshire Council in its role as landowner.
- (iv) If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. A Notice of Review form should be obtained from and submitted to:

Head of Legal and Governance
Business Services
Aberdeenshire Council
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

Tel: 01224 665147

Email: committee.services@aberdeenshire.gov.uk

A form may also be obtained from a local Planning office or the Council's website at www.aberdeenshire.gov.uk/committees/localreviewbody.asp

- (v) 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 5 of the Town and Country Planning (Scotland) Act 1997.



NOTICE OF REQUIREMENT FOR NOTICES

Notification of Initiation of Development

The person who intends to implement the development must inform the Planning Authority of the date they intend to start work on the development as soon as it is practicable using the enclosed Notice of Initiation of Development. This Notice must be submitted before starting work. Failure to do so would be a breach of planning control under Section 123(1) of the Town and Country Planning Act 1997 and the Planning Authority may take enforcement action.

The Permission may contain pre-conditions that require specific matters to be approved before development can commence. This means that a lawful commencement of the approved development cannot be made until the particular requirements of the condition(s) have been met. The person who intends to start development must ensure that all conditions are properly complied with. If you are in any doubt about the meaning or implications of any of the conditions you should contact the Planning Authority or seek professional advice. If you do not comply fully with the conditions the Planning Authority may serve a Breach of Condition notice on you or take enforcement action and you may be prosecuted or fined. Please note, there is no right of appeal against a Breach of Condition Notice.

Notification of Completion of Development

The person who completes the development must, as soon as practicable after doing so, give notice of completion to the Planning Authority using the enclosed Notice of Completion.

Please note, the Planning Authority may take enforcement action where such notice is not given.

PLEASE NOTE – THE ABOVE REQUIREMENTS ARE IN ADDITION TO ANY SIMILAR REQUIREMENTS UNDER THE BUILDING REGULATIONS OR ANY OTHER LEGISLATION



**NOTIFICATION OF INITIATION OF DEVELOPMENT
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, SECTION 27A(1)**

APPLICATION REFERENCE NUMBER: APP/2016/1111

Full Planning Permission for Erection of 2No. 2.3MW (58.9m to Hub and 99.9m to Blade Tip) Wind Turbines, Non Compliance with Condition 2 (Make, Model, Design, Power Rating and Sound Power Level of Turbine), Condition 12 (Sound Power Levels) and Condition 14 (Noise Level) of Planning Permission APP/2013/1156 for Erection of 2 No. 2.3MW (64m to Hub Height, 99.5m to Blade Tip) Wind Turbines, Formation of Access Track and Sub-Station at Land at Paul Matthew Hill, Johnshaven, Aberdeenshire

Dated: 8 July 2016

I hereby confirm that the above development is expected to commence on:

Date:

The person intending to carry out the development is:

Name:

Address:

.....

.....

.....

Postcode:

Telephone no:

***Please delete as appropriate**

*The above person is the owner of the land to which the development relates

*The landowner is (if different from the person above):

Name:

Address:

.....

.....

.....

Postcode:



The person appointed to oversee the carrying out of the development is (if applicable):

Name:

Address:

.....

.....

Postcode:

Telephone no:

Signed Date

On Behalf of

Please return this form, duly completed to:

Head of Planning and Building Standards
Aberdeenshire Council
Viewmount
Arduthie Road
Stonehaven
AB39 2DQ

IMPORTANT:

1. Failure to submit this Notice before commencement of development would be a breach of planning control under Section 123(1) of the Town and Country Planning Act 1997 and the Planning Authority may take enforcement action.
2. Any planning conditions imposed which necessitate action prior to the commencement of development, must be complied with to prevent a Breach of Planning Conditions and the subsequent service of a Breach of Condition Notice or other enforcement action.
3. Any planning conditions imposed relative to this planning application will be the subject of our planning condition monitoring policy which will entail a visit(s) to the site.



**NOTIFICATION OF COMPLETION OF DEVELOPMENT
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, SECTION 27B(1)**

APPLICATION REFERENCE NUMBER: APP/2016/1111

Full Planning Permission for Erection of 2No. 2.3MW (58.9m to Hub and 99.9m to Blade Tip) Wind Turbines, Non Compliance with Condition 2 (Make, Model, Design, Power Rating and Sound Power Level of Turbine), Condition 12 (Sound Power Levels) and Condition 14 (Noise Level) of Planning Permission APP/2013/1156 for Erection of 2 No. 2.3MW (64m to Hub Height, 99.5m to Blade Tip) Wind Turbines, Formation of Access Track and Sub-Station at Land at Paul Matthew Hill, Johnshaven, Aberdeenshire

Dated: 8 July 2016

I hereby confirm that the above development was completed on:

Date:

The person who completed the development is:

Name:

Address:

.....

.....

.....

Postcode:

Telephone no:

Signed Date

On Behalf of

Please return this form, duly completed to:

Head of Planning and Building Standards
Aberdeenshire Council
Viewmount
Arduathie Road
Stonehaven
AB39 2DQ



Viewmount Arduthie Road Stonehaven AB39 2DQ Tel: 01467 534333 Email: planningonline@aberdeenshire.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100354183-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Please provide the application reference no. given to you by your planning authority for your previous application and the date that this was granted.

Application Reference No: *

APP/2016/1111

Date (dd/mm/yyyy): *

08/07/2016

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

APPLICATION (UNDER SECTION 42 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997) TO AMEND CONDITIONS 1 AND 3 OF PLANNING PERMISSION REFERENCE APP/2016/1111 IN RESPECT OF DURATION OF PLANNING PERMISSION; LAND AT PAUL MATTHEW HILL, JOHNHAVEN, ABERDEENSHIRE

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

21/01/2021

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

The approved development is completed, this is an application to amend a condition attached to the planning permission. Exact start and completion dates are unknown, the date provided should not be relied upon

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Building Name:

Last Name: *

Building Number:

Telephone Number: *

Address 1
(Street): *

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Fax Number:

Country: *

Postcode: *

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="c/o agent"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="c/o agent"/>
Company/Organisation	<input type="text" value="Renewable Energy Ventures"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="c/o agent"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="c/o agent"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="grantyoung@youngplanning.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="Aberdeenshire Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="769245"/>	Easting	<input type="text" value="377223"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

0.10

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Operational wind farm, associated infrastructure and hardstanding

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Are you able to identify and give appropriate notice to ALL the other owners? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Address:

Brotherton Estates Ltdc/o Burnett & Reid, 15 Golden Square, Aberdeen, AB10 1WF

Date of Service of Notice: *

22/01/2021

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Grant Young

On behalf of: Renewable Energy Ventures (Brotherton) Ltd

Date: 22/01/2021

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Cover letter

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

Yes N/A

A Design Statement or Design and Access Statement. *

Yes N/A

A Flood Risk Assessment. *

Yes N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

Yes N/A

Drainage/SUDS layout. *

Yes N/A

A Transport Assessment or Travel Plan

Yes N/A

Contaminated Land Assessment. *

Yes N/A

Habitat Survey. *

Yes N/A

A Processing Agreement. *

Yes N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Grant Young

Declaration Date: 22/01/2021

Payment Details

Online payment: XHWP00807822
Payment date: 22/01/2021 16:51:00

Created: 22/01/2021 16:51

Your planning consultation entitled [Land At Paul Matthew Hill Johnshaven](#) for Planning Application Reference APP/2021/0121 on Ward Pages has closed, your proposal for this application to be determined by officers using delegated powers has been Accepted. Full results are shown below:

Councillor	Response	Comments	Interest Declared
Cllr. George Carr	Agree Officer Delegation		● No Interest Declared
Cllr. Jeff Hutchison	Agree Officer Delegation		● No Interest Declared
Cllr. Bill Howatson	Agree Officer Delegation		● No Interest Declared
Cllr. Leigh Wilson	Agree Officer Delegation		● No Interest Declared

Comments for Planning Application APP/2021/0121

Application Summary

Application Number: APP/2021/0121

Address: Land At Paul Matthew Hill Johnshaven Aberdeenshire

Proposal: Erection of 2 Wind Turbines Without Compliance with Conditions 1 (Duration of Consent) and Condition 3 (Restoration of Site) of Planning Permission Reference APP/2016/1111

Case Officer: Aude Chaiban

Customer Details

Name: Mr Bill Connon

Address: Muirton Cottage Benholm Montrose DD10 OHZ

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Sir/Madam

I wish to object to the proposal.

The initial and subsequent application was made for a 25 year life span which is standard for this type of project.

Why now say the conditions are restrictive when the applicants accepted the 25 year constraint with required decommissioning in place to protect the environment and return the local area to the way it was.

By approving this it will simply allow every other scheme to be extended.

By amending condition 1 with no time scale stated has the potential for an almost infinite life span. The stressed parts can be replaced or refurbished like for like as required and operation continues which not what Aberdeenshire Council or the Scottish Ministers gave their approval too.

No mention is made of the offshore wind farms that are currently being built just off the east coast. These turbines benefit from the economy of scale being far more efficient in generating potential and as such should make much smaller onshore wind schemes redundant in time. Visual impact is massively reduced with no noise or flicker affects to bother residents.

On that subject the turbine operators have not been good neighbors as I submitted a complaint to Aberdeenshire Council on the second day of the turbines operation regarding shadow flicker at my property.

Under condition 18 states.....

"The turbines must be programmed to shut down during times and weather conditions when shadow flicker is predicted to occur.

Reason: " in the interests of reducing impacts on residential properties and addressing any differences in predicted and actual shadow flicker resulting from the development."

This was not done, dates, times and video evidence submitted resulted in the complaint being upheld.

The operators failed in their duty to comply with this condition from the start and again later on in the year when this problem occurs despite being informed by the Council that a complaint had been received.

Same problem again last year when the turbines were being shut down at the wrong time.

No apology was made so why reward them.

Should Aberdeenshire Council approve the application I would ask the the following condition be amended.

With respect to condition 16 " the Wind Turbine Operator shall shut down the turbines no later than 24 hours after the receipt of the request... " the same be applied to section 18 with legal action taken against the operators for breach of consent and compensation paid to affected residents.

The retrospective application should be refused, it only panders to the needs of the current investors, better they put their money into offshore wind.

Might also be an idea to repair the faulty turbine that hasn't produced a single Watt in over a week, so much for reliability !!

Regards

Bill Connon