



**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
13 NOVEMBER 2018**

**SUBJECT: PROPOSED WIND FARM COMPRISING OF 7 WIND TURBINES 6
OF A MAXIMUM HEIGHT BASE TO TIP NOT EXCEEDING 149.9M
AND 1 OF MAXIMUM HEIGHT NOT EXCEEDING 134M,
EXTERNAL TRANSFORMER HOUSING, SITE TRACKS, CRANE
PAD FOUNDATIONS, UNDERGROUND ELECTRICITY CABLE,
CONTROL BUILDING, TEMPORARY CONSTRUCTION AND
COMPOUND, 2 BORROW PITS, ASSOCIATED
WORKS/INFRASTRUCTURE AND HEALTH AND SAFETY
SIGNAGE AT, PAUL'S HILL II WIND FARM, BALLINDALLOCH,
MORAY (PLANNING REFERENCE 18/00523/S36)**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to consider a proposed response to a request for consultation from the Scottish Government - Energy Consents Unit (ECU) relating to an application received by them for consent under Section 36 of the Electricity Act 1989 (which includes deemed planning permissions) for the extension of Pauls Hill windfarm.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee;-
- i) consider and note the contents of the report, as set out in Appendix 1, including the conclusions regarding the planning merits of the development which take into account the Moray Local Development Plan 2015 and all material considerations including the presence of an existing windfarm at Pauls Hill;
 - ii) in responding to the consultation request from the Scottish Government, agree to lodge an objection to the proposed development on the basis of the recommendations set out in Appendix 1, in particular in terms of the considered unacceptable

landscape and visual impacts that would arise from the position and height of proposed turbines on the site;

- iii) consider whether any additional comments on the proposal should be submitted;**
- iv) agree that in the event of approval and prior to determination, the Council request it be consulted on proposed conditions to be attached to any consent;**
- v) agree that in the event of approval no additional expansion of the rock cut at the existing windfarm entrance should be permitted (if this is intended to facilitate turbine delivery) as the details provided are not clear on this matter.**

3. BACKGROUND

- 3.1 The applicant, Natural Power Consultants Ltd has lodged an application for consent under Section 36 of the Electricity Act 1989 for the construction, operation and decommissioning of a proposed windfarm extension at Pauls Hill, near Ballindalloch. If granted, planning permission is deemed to be granted for the development (see Site Plan in **Appendix 2**).
- 3.2 As the estimated output of the windfarm, combined with that of the operational windfarm at Pauls Hill will exceed 50mW, the proposal is to be determined by the ECU. Responsibility for consultation with statutory consultees, relevant local authorities, receipt of representations and determination lie with the ECU. In these circumstances the role of Moray Council, as planning authority, is as a consultee rather than being the determining authority.
- 3.3 The Scottish Government (Energy Consents & Deployment Unit) has invited Moray Council to comment on the proposed wind farm development within a specific timeframe along with other consultees. The response from Moray Council is due to be returned after this Committee as an extension of two days following committee consideration was agreed.
- 3.4 The developers were required to go through Pre Application Consultation with local communities and two public exhibitions were advertised and held in Aberlour and Knockando on the 8th and 9th of November 2017.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Promote economic development and growth and maintain and promote Moray's landscape and biodiversity.

(b) Policy and Legal

The application is made for consent under S.36 of the Electricity Act 1989 to Scottish Government. If consented, planning permission is deemed to be granted for the development. For planning purposes proposals require to be determined in accordance with the development plan unless material considerations indicate otherwise. If granted by Scottish Government, the responsibility for the discharge of (planning) conditions attached to the formal decision to grant consent will pass to Moray Council.

(c) Financial implications

If Moray Council determines to object to the proposal, a Public Inquiry would be arranged by Scottish Government. Moray Council would be expected to attend and participate in the Inquiry process, including any pre-Inquiry arrangements with resultant costs, including officer, legal representation and consultant costs where required/appropriate.

At Inquiry, the applicant may seek an award of costs against the Council if it is considered the Council has acted unreasonably.

(d) Risk Implications

If the Council decide not to respond within the agreed period it would be open to Scottish Government to proceed and determine the application.

If deciding to object, the outcome of any Public Inquiry held to consider this proposed development is uncertain: it might uphold and support the Council's decision to object, but equally the objection could be dismissed and consent granted for the development.

(e) Staffing Implications

In the event of a Public Inquiry, staff time and resources (planning and legal officers) will be required for preparation and attendance at any Inquiry.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager (Property and Contracts), the Equal Opportunities Officer, Manager, Development Management, the Transportation Manager, Gary

Templeton (Principal Planning Officer) and Lissa Rowan (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

5. CONCLUSION

- 5.1 From Appendix 1, the planning merits have been considered relative to current development plan policy and material considerations, including the wind energy supplementary planning policy guidance and wind energy landscape capacity study prepared by the Council.**
- 5.2 Whilst national policy provides support for renewable energy proposals the proposal is not considered to be in full accordance with local (development plan) policy and guidance.**
- 5.3 Notwithstanding the material considerations advanced by the applicant (including matters identified in the submitted Environmental Statement) on balance, Officers would make the following recommendation that would form the basis of the response to the ECU (as stated in Appendix 1 and repeated below).**

The proposed development is contrary to Moray Local Development Plan 2015 policies PP1 Sustainable Economic Growth, ED7 Rural Business Proposals, ER1 Renewable Energy Proposal, IMP1 Developer Requirements and Moray Onshore Wind Energy 2017 Policy Guidance and The Moray Wind Energy Landscape Capacity Study 2017 for the following reasons;-

- 1. The proposed development by virtue of the proposed turbine positions and height close to and competing with the landmark hill Roy's Hill, would diminish its prevalence and distinctiveness within the landscape. The turbines would also stop Roy's Hill acting as an effective buffer, containing the existing windfarm at Pauls Hill from the surrounding lower valleys to the east and south;**
- 2. The turbines will be located close to the edge of the 'Open Rolling Upland' Landscape Character Type (LCT) 11 and the identified area of potential for larger turbines within that LCT. The proposed turbines will therefore encroach visually upon the more complex lower Spey Valley to the south and to the more settled Upper Knockando area to the east and north east. Specifically proposed Turbines 6 and 7 would impact on the Spey Valley and Turbine 1 and 2 would particularly impact upon the Upper Knockando area closer to the windfarm;**
- 3. The proposed windfarm extension would be detrimental to the scale and well enclosed setting of the existing Pauls Hill windfarm by introducing substantially larger turbines closer to the contained edges of the upland area it currently occupies. From certain views the proposed turbines would appear substantially larger than the existing turbines at Pauls Hill leading to visual confusion and a lack of cohesiveness between existing and proposed turbines;**

- 4. Proposed Turbine 1 would have a detrimental impact upon the visual amenity of lower lying properties immediately east of and closest to the proposed windfarm extension. The turbine would appear overly imposing and dominate the previously open and undeveloped small valley formed by watercourse Allt Arder.**

Author of Report: Neal MacPherson, Principal Planning Officer

Background Papers:

Ref: