

MORAY COUNCIL

Minute of Special Meeting of the Planning and Regulatory Services Committee

Thursday, 10 February 2022

Various Locations via Video Conference

PRESENT

Councillor David Bremner, Councillor Frank Brown, Councillor John Cowe, Councillor Gordon Cowie, Councillor John Divers, Councillor Claire Feaver, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Ray McLean, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor, Councillor Sonya Warren

APOLOGIES

Councillor Louise Nicol

IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Services Manager, Mr N MacPherson, Principal Planning Officer (Development Management), Mrs D Anderson, Senior Engineer (Transport Development), Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1 Chair

Councillor Bremner, being Chair of the Planning and Regulatory Services Committee, chaired the meeting.

2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillor's Code of Conduct, there were no declarations from group leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the Agenda nor any declarations of Members Interest in respect of any item on the Agenda.

3 Planning Application 21/01391/APP

Ward 2 - Keith and Cullen

Installation of underground electricity cables and associated development on Land Between Greenhill and Factors Park Plantation, Deskford, Cullen, Moray for Moray Offshore Windfarm (West) Ltd.

A report by the Head of Governance, Strategy and Performance asked the Committee to consider Planning Application 21/01391/APP following the conclusion of a Pre-determination Hearing at a special meeting of the Planning and Regulatory Services Committee earlier in the day.

During his introduction, Mr MacPherson, Principal Planning Officer advised that some of the compensatory planting lies on what will be the final temporary construction compound of the substation site, and some commissioning and testing of the proposed cable route may have to occur before all the compensatory tree planting can be carried out. He therefore sought agreement from the Committee to amend condition 12 to convey that no later than the first planting season following the full electrification of the cable route and substation, the compensatory planting must be fully implemented. This was agreed.

Following consideration, the Committee agreed to grant planning permission, as recommended, in respect of Planning Application 21/01391/APP, subject to:

- (i) the requirement of a planning obligation towards compensatory planting to be secured by a legal agreement or upfront payment, prior to issuing of any planning consent; and
- (ii) the following conditions and reasons, subject to an amendment to condition 12 to convey that no later than the first planting season following the full electrification of the cable route and substation, the compensatory planting must be fully implemented:
 1. Notwithstanding the submitted details, prior to the commencement of any development, a detailed Phasing Plan, Access Strategy and detailed Construction Programme for the development shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority. The Phasing Plan Access Strategy and Construction Programme shall include the details of the all proposed routes for construction traffic and abnormal load deliveries and the locations of all proposed access points on the public road network, along with the timing of works at each location on the cable route.

Thereafter, all works shall be completed in accordance with the approved Phasing Plan and Construction Programme.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2. The planning permission hereby granted for the proposed development shall be carried out only in accordance with the approved Phasing Plan permitted by Condition 1 and the details, including detailed drawings (and other supporting information), shall previously have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority in line with the matters specified for that phase of the development. These drawings and details shall show the matters specified in Conditions 3 and 4 below.

Reason: In order that detailed consideration can be given to the matters specified prior to the works commencing on each phase of the development.

3. In pursuance of Condition 2 above, for each phase of the development for which

details are to be submitted for approval, the required details shall be:

- a) Detailed drawing of the proposed temporary access routes for the phase and details of the number and size of construction vehicles using the access routes for that phase of development;
- b) Detailed drawings of the improvements required to the public roads utilised by construction traffic and any abnormal load deliveries for the phase, which shall include but not be limited to the provision of new passing places, road widening and edge strengthening, all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with Moray Council specification;
- c) Detailed drawings of the proposed access locations onto the public road for construction vehicles for the phase, including the required visibility splays, access specification and construction details, details of all earthworks and drainage provision and/or drainage diversion, details of proposed fencing/gates, signage and any required temporary traffic management, along with details of reinstatement works for any temporary access;
- d) Details of the locations of all cable and haul road crossings within that phase of the development and the proposed works associated with the crossings, including but not limited to, the means of cable crossing e.g. directional drilling or open trench, means of access to works areas, details of the haul road crossings and any required temporary traffic management, and details of required reinstatement works;
- e) Details of diversion routes for local footpaths during the construction period and associated signage (to be agreed with the Access Manager);
- f) Detailed drawings of the locations of all cable joint access points, including their proximity to the public road and any public road drainage, and details of any temporary fencing or other measures to protect the users of the public road during the construction period;
- g) A Construction Traffic Management Plan, the details of which must include, parking provision for staff and loading/unloading, provision for the prevention of material being deposited onto the public road including wheel cleaning and for road sweeping at construction access(es) to the public road, a programme for monitoring and provisions for interim maintenance to be undertaken to ensure safe and suitable access is maintained for the construction access routes for the duration of the works will be required;
- h) 'Before' road condition video and joint surveys.

Thereafter, all works shall be completed in accordance with the approved details and with the Construction Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

4. In pursuance of Condition 2 above, for each phase of the development where there is a requirement for Abnormal Load deliveries for which details are to be submitted for approval, the required details shall be:
 - a) A detailed survey of the Abnormal Load delivery route shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and/or abnormal indivisible load vehicle movements;
 - b) Road improvements/strengthening (either temporary or permanent) required as a result of the survey prior to any movements of any

- construction and abnormal load traffic shall be completed;
- c) Abnormal Load Traffic Management Plan, details of which must include the methods of dealing with large and/or abnormal delivery vehicles, vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network;
 - d) Evidence of the completion of an Abnormal load trial run(s) undertaken for the delivery route. Representatives from the Moray Council Transportation (Traffic), the Trunk Road Authority, Police Scotland and any other roads authorities where roads will form part of the route of the delivery must be invited to the trial run.

Thereafter, all works associated with the Abnormal Load Deliveries shall be completed in accordance with the approved details and the Abnormal Loads delivered in accordance with the Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

- 5. Prior to commencement of development on any phase of the development, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
 - a. Evidence to confirm that a Section 96 'Wear and Tear' Agreement has been completed and agreed by the developer or their representative and the local Roads Authority, including a commitment to the undertaking of joint 'before' and 'after' road condition surveys, to ensure that the costs of works to repair damage to the public road as a result of construction traffic on the roads identified in Condition 1 will be met.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

- 6. At the start and end of each phase (as per condition 1) 'before' and 'after' condition video surveys of the proposed delivery and construction traffic routes shall be undertaken jointly with the Roads Authority and a copy of the survey provided to the Planning and Roads Authority.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

- 7. Construction works associated with the development, audible at any point on the boundary of any noise sensitive dwelling, shall be permitted between 0700-1900 hours, Monday to Friday and 0700-1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority, and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: In the interests of the amenity of nearby dwellings.

8. The Construction Environmental Management Plan ("CEMP") shall be implemented and maintained throughout the construction phase and in accordance with the details provided in the supporting document, including Appendices, by Moray Offshore Wind Farm (West) Limited and titled "OnTi Cable Route Construction Environmental Management Plan, Document Name : 8460005-DAD-MWW-REP-000006 Revision:02 , Status : Final, Date : 03-09-2021."

Reason: In the interests of the amenity and environment of the surrounding area.

9. No works in connection with the development hereby approved shall commence unless an Archaeological Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the WSI will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a Post-Excavation Research Design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

10. Prior to development commencing, detailed drawings and cross sections of any above ground watercourse crossings, must be submitted to and approved in writing by Moray Council, as Planning Authority in consultation with SEPA and Moray Flood Risk Management.

Thereafter the approved water course crossings must be developed in accordance with the approved plans unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In order to ensure the finalised water crossing design can be given further consideration and to ensure no detriment to the water environment or flood risk occurs.

11. The development shall be carried out in accordance with all mitigation measures (including pre-development surveys) as identified in the OnTi Protected Species Baseline Survey Report (doc. name: 8460005-DAD-MWW-REP-000005 rev: 2 dated 3 September 2021) and appendices hereby approved.

Reason: To ensure the ecology and environment of the surrounding areas are protected during construction works.

12. The compensatory planting as identified in the Cable Route Tree Felling and Compensatory Planting Summary Report (doc. name: 8460005-DAD-MWW-REP-000022 rev. 2 dated 21 December 2021) and appendices hereby approved shall be provided in full no later than the first planting season following the full electrification of the cable route and substation.

Reason: To ensure timeous delivery of the agreed compensatory tree planting.

13. That within a period not less than 6 months prior to the cessation of operations, or an alternative timeframe as agreed in writing by Moray Council, as Planning Authority, a decommissioning plan is to be prepared in line with best practice at the time of preparation and submitted for the written approval of Moray Council, as Planning Authority in consultation with SEPA and Aberdeenshire Council. The decommissioning of the development must thereafter be undertaken in accordance with the approved decommissioning plan.

Reason: To ensure provision is in place to facilitate a move towards a "Circular Economy" and future proof the development against future environmental requirements or considerations in the interests of the protection of the natural environment.

4 Planning Application 21/01561/AMC

Ward 2 - Keith and Cullen

Approval of Matters Specified in Conditions 2-9 11-15, 18-20, 22, 24-29 on planning consent 18/01046/EIA to Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network From Within The Vicinity Of Redhythe Point In Aberdeenshire Council Area To Whitehillock Farm Keith Moray AB55 5PH for Moray Offshore Windfarm (West) Ltd

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for the Approval of Matters Specified in Conditions 2-9 11-15, 18-20, 22, 24-29 on planning consent 18/01046/EIA to Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network from within the vicinity of Redhythe Point in Aberdeenshire Council area to Whitehillock Farm, Keith, Moray, AB55 5PH for Moray Offshore Windfarm (West) Ltd.

The Committee noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application relates to a previous National level Planning Permission in Principle (PPP) under National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network. However, as this application is for Approval of Matters Conditioned pertaining to that PPP no further statutory pre-determination hearing is required.

Following consideration, the Committee agreed to grant planning permission, as recommended, in respect of Planning Application 21/01561/AMC, subject to:

- (i) payment for contribution to the compensatory planting fund being made prior to the issuing of consent; and
- (ii) the following conditions and reasons:
 1. Prior to energisation of either the Moray West substation or cables, evidence shall be submitted to and approved in writing by Moray Council in consultation with Scotland Gas Networks to demonstrate that an assessment of the potential

effects of inducing unacceptable levels of electrical alternating currents and voltage onto the SGN A06 high pressure gas transmission pipeline and associated equipment, has been carried out and a scheme of mitigation prepared to address any such effects as may be identified by that assessment.

Thereafter any mitigation identified as being required must be agreed in writing with Moray Council and if required fully implemented in accordance with the approved scheme of mitigation and be in place prior to energisation of either the Moray West substation or cables unless otherwise agreed in writing with the Moray Council in consultation with Scotland Gas Networks.

Reason: In order to ensure a mechanism is in place to assess and mitigate the effects of inducing alternating currents and voltage upon other utilities in the event they arise.

2. The development must be carried out in accordance with the Private Water Supply Risk Assessment submitted in December 2021 inclusive of the proposed monitoring and mitigation. Where a supply is adversely affected by the works, short-term contingency arrangements shall be implemented and, where necessary, a permanent replacement adequate and wholesome supply shall be provided, e.g. connection to the public mains or provision of an alternative supply.

Reason: To ensure that an adequate and wholesome water supply to existing properties is maintained.

3. The rating level of noise associated with the operation of the Moray West Substation development shall not exceed the background sound level by more than 5 dB (A) at any noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level and background sound level associated with this condition are defined within BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: To protect local residents from noise nuisance due to the operation of the Moray West Substation.

4. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: To ensure the construction phase is operated at times that prevent nuisance to local residents.

5. The developer shall implement in full the management, monitoring and mitigation provisions contained within the Construction Environmental Management Plan supporting document as they pertain to noise, vibration, dust, air quality and artificial lighting. For the avoidance of doubt, the supporting document is titled "Moray Offshore Wind Farm (West) Limited. OnTI Substation

Reason: To ensure the construction phase is managed to prevent nuisance to local residents.

6. Unless otherwise agreed, the landscaping and compensatory planting shall be carried out in accordance with the updated Substation Landscape Plan General Arrangement Drawing number 201457_OPEN_MORW_SLP_SE01 Rev B. and the details contained within the "Cable Route Tree Felling and Compensatory Planting Summary Report Revision 2" submitted in 21 December 2021. The compensatory planting must be undertaken no later than the first planting season following electrification of the electricity substation (excluding any commissioning or testing of electrical plant). If within the first 5 years of the development becoming operational, any trees or shrubs die or are damaged, they must be replaced with a similar species and height of plant.

Reason: In order to ensure the appropriate landscaping and compensatory landscaping takes place.

7. If any design modifications are required to the design and layout of the electricity substation compound beyond the layout hereby approved, these must first be submitted to and approved by Moray Council in writing prior to electricity substation compound being constructed.

Reason: To ensure that any final design changes to the layout of the compound are considered.

8. Unless otherwise agreed with the Council, as Planning Authority the submitted Construction Traffic Management Plan, Onshore Substation Phasing Plan, Substation Layout Appearance and Lighting Plan and Substation Mitigation Statement submitted to purify the conditions stated above must be complied with in full.

Reason: To ensure development is carried out sensitively and minimises the impact of development activity in line with the mitigation and imbedded design mitigation contained in the named documents.