

## **MORAY COUNCIL**

### **MINUTE OF SPECIAL MEETING OF THE PLANNING & REGULATORY SERVICES COMMITTEE**

**THURSDAY 22 NOVEMBER 2018**

**COUNCIL CHAMBERS, ELGIN**

#### **PRESENT**

Councillors D Bremner (Chair), A Patience (Depute), G Alexander, J Allan, T Coull, G Cowie, P Coy, J Divers, C Feaver, D Gatt, L Laing, G Leadbitter, M Macrae, S Morrison, A McLean, R McLean, D Ross and S Warren.

#### **APOLOGIES**

Apologies were intimated on behalf of Councillors F Brown, J Cowe, L Creswell, T Eagle, R Edwards, M McLean, R Shepherd and W Wilson.

#### **ALSO PRESENT BY INVITATION**

Jamie Grant, OFTO Development Manager on behalf of Moray Offshore Windfarm (West) Limited.

#### **IN ATTENDANCE**

The Head of Development Services, the Manager (Development Management), Mr N MacPherson, Principal Planning Officer (Development Management), Mrs D Anderson, Senior Engineer (Transport Development), Mr A McEachan, Head of Legal and Democratic Services, as Legal Adviser to the Committee and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

### **1. DECLARATION OF GROUP DECISIONS AND MEMBER'S 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.

### **2. PUBLIC HEARING – PLANNING APPLICATION 18/01046/EIA**

Ward 2: Keith and Cullen

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 at Blackhillock including temporary construction compounds, access track laydown areas and other associated works from within the vicinity of Redhythe Point

in Aberdeenshire Council area to Whitehillock Farm, Keith, Moray for Moray Offshore Windfarm (West) Limited.

Reports were submitted by the Head of Legal and Democratic Services and the Appointed Officer in regard to an application 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 at Blackhillock including temporary construction compounds, access track laydown areas and other associated works from within the vicinity of Redhythe Point in Aberdeenshire Council area to Whitehillock Farm, Keith, Moray for Moray Offshore Windfarm (West) Limited.

The report by the Head of Legal and Democratic Service advised that the application had been referred to a Pre-determination Hearing as the application is a National Development as defined under the Hierarchy Regulations 2008 and National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network (where the proposed new substation and electricity transmission cables would exceed the minimum threshold of 132kV). In accordance with the Pre-determination Hearing procedure, the Applicant and those submitting representations were invited to attend and be afforded the opportunity of being heard. The report also set out the proposed procedures for the Hearing and advised that Members of the Committee visited the site of the application on Tuesday 20 November 2018.

The Chair welcomed those present and advised them that submissions must be restricted to those already submitted. He further advised that the Hearing would be confined to examining the planning merits of the application and therefore discussion on irrelevant non-planning related issues would not be considered.

The Committee noted that Jamie Grant, OFTO Development Manager for Moray Offshore Windfarm (West) Limited was in attendance and representing the Applicant.

The Clerk advised the Committee that, of those submitting representations on the application as listed on page 43 of the Appointed Officer's report, none had accepted the invitation to address the Committee however Ms Gillies had submitted a written statement that had been circulated to the Committee and uploaded on to the Council's website along with the agenda.

The Chairman outlined the procedure to be followed for the Hearing, which was accepted by the Committee and Mr Grant (on behalf of the Applicant).

Mr Grant, representing the Applicant, addressed the meeting on the application and representations received and responded to questions from the Committee thereafter.

The main objections to the application noted by the Committee included:-

- Affecting natural environment
- Drainage
- Road Access

The Head of Development Services advised that an additional condition had been received from Transport Scotland which had been circulated to Members ahead of

the meeting and sought agreement from the Committee to include this to the conditions already detailed within the report. This was agreed.

Following consideration, the Committee agreed to recommend to Moray Council that planning permission is granted in respect of Planning Application 18/01046/EIA, as recommended subject to the following conditions/reasons:

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions below shall be obtained from Moray Council, as Planning Authority. In relation to all the conditions below the submission of matters conditioned below may be submitted in relation to the proposal within Moray in its entirety, or may be confined to each phase of the proposal individually or combined, namely either the transmission cables/jointing bays or the electricity substation.

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

2. i) The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings/details which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings/details shall show the matters specified below;-
  - a. All elevations and floor plans of structures, buildings, apparatus and fencing proposed for the substation. Plans must include details of the proposed finished levels or cross sections through the site.
  - b. Details of the proposed building materials and materials used for enclosures and gates to the substation compound.
  - c. Details of the intended lighting strategy for the substation.
  - d. Details of any proposed landscaping scheme to surround the substation compound, identifying the species, density and height of trees to be planted. A landscaping maintenance schedule must also accompany any landscaping scheme.
- ii) All works identified in 2(i) shall be completed in accordance with the approved details.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

3. Prior to the commencement of any phase of development:
  - (i) The following details must be submitted for approval to the Council, as Planning Authority,
    - a. Plan(s) (Scale 1:10000 minimum) showing all proposed construction access route(s) (including abnormal load routes);
    - b. Detailed assessment of the proposed construction access route(s) (See Condition 3(i) a) including vehicle swept path analysis as appropriate for abnormal load requirements and construction traffic and detailed proposals for mitigation required. e.g. road widening and suitably located, intervisible passing places, holding areas to accommodate construction traffic, abnormal

load delivery vehicles all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with The Moray Council specification;

- c. Details of all proposed access locations onto the public road for construction vehicles including visibility splays, access construction, fencing/gating, signing;
- d. Details confirming locations of cable road crossings and proposed works e.g. directional drilling or open trench, access to works areas and crossings of the public road;
- e. Details confirming location of site compounds and access routes from the public road;
- f. Phasing plan(s) for the cable and sub-station works which confirms road improvement works required prior to commencement of each phase;
- g. A detailed survey of the construction access 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;
- h. 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;
- i. Construction Traffic Management Plan. (Details must include, parking provision for staff and the loading/unloading of vehicles, 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, 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.

- (ii) All works identified in 3(i) shall be completed in accordance with the approved details.

**Reason** - 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.

### **Delivery and Trigger Points**

The required works to the public road network shall be completed prior to the delivery of any materials associated with each phase (Condition 3(i) f).

- 4. (i) Prior to commencement of construction on any phase of construction identified in Condition 3(i)f the following must be complied with/submitted:
  - 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 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 3(i)a will be met.

- b. Details shall be submitted for approval to the Council, as Planning Authority to confirm the provision and control of appropriate visibility splays at each proposed construction access in the construction phase.
- c. A detailed programme for the works associated with the laying of the cable, including the timing of any temporary road closure to facilitate the opening of any road.
- d. Diversion routes for local footpaths and cycleways during the construction period shall be agreed with the Council as, Planning Authority (Core Paths). All signage associated with the diversion routes shall be agreed with the Council as Planning Authority.
- e. Verge hardening shall be undertaken at any locations determined by the vehicle swept path analysis and abnormal load trial run to accommodate the wide turning circle of the abnormal load vehicles transporting sub-station components over the areas determined within the Construction Traffic Management Plan. Any dropped kerbs required must be installed during the construction period to enable over running onto the hardened verge.
- f. Unless otherwise agreed in writing by the Council abnormal load trial run(s) must be undertaken for the delivery route prior to the commencement of construction and deliveries. 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.

- (ii) All works identified in 4(i) shall be completed in accordance with the approved details.

**Reason** - The provision of information currently lacking from the submission to ensure acceptable infrastructure at the development access in the interests of road safety.

- 5. At the start and end of each phase (as per condition 3(i)f) '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** - The provision of information currently lacking from the submission to ensure acceptable infrastructure is provided in the interests of road safety.

- 6. Dedicated parking areas shall be provided during construction to prevent vehicles parking on the public road verge, the locations of which shall be agreed with the Council as, Planning Authority following consultation with Moray Council Transportation.

**Reason** - To ensure acceptable development in the interests of road safety.

- 7. Prior to the commencement of construction the diversion routes for local footpaths and cycleways during the construction period shall be agreed with Moray Council as, Planning Authority in consultation with the Access Manager. All signage associated with the diversion routes shall be agreed with Moray Council as, Planning Authority.

**Reason** - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

8. No works shall commence on site until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to ensure that no water or loose material shall drain or be carried onto the public footpath/carriageway for the life-time of the development.

**Reason** - To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

9. Any existing ditch, watercourse or drain under any access or passing place or holding area as a result of this development shall be re-routed or piped using a suitable diameter of pipe, in agreement with Moray Council as, Planning Authority in consultation with Transportation Manager. Any pipe shall be laid to a self-cleansing gradient.

**Reason** - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

10. For the cables details must be provided of their final route and identify any proposed micro siting limits. The proposed route must demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland
- Private water supplies
- Groundwater
- Engineering works in the water environment, including watercourse crossings
- Flood Risk

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

11. For each phase of development a Construction and Temporary Works Schedule including plans showing all construction and temporary works must be provided. The schedule must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs),
- Peatland
- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

12. For the substation full details of the layout, siting and elevations of the substation and any associated access road must be provided. This must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland
- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains
- Full details of the proposed means of disposal of foul (septic tank) and surface water from the substation supported, if required, by a Drainage Impact Assessment.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

13. A specific Construction Environmental Management Plan (CEMP) for each phase is required to be submitted including details of a Site Waste Management Plan, disposal of any surplus material and pollution prevention measures once operational. The CEMP must also contain a Phasing Plan outlining details of the phasing of all construction works including top soil stripping. Thereafter, development must accord with the agreed Phasing Plan unless otherwise agreed in writing with Moray Council as, Planning Authority in consultation with SEPA.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

14. Unless otherwise agreed in writing with the Council as, Planning Authority, the imbedded mitigation and proposed additional mitigation measures as specified in Chapter 15 Summary of the Environmental Impact Assessment of the EIA Report must be carried forward and implemented in the detailed design, layout and position of the transmission cables and substation in any approval of reserved matters application.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

15. The pre-construction verification check surveys referred to in the mitigation proposals summarised in Chapter 15 of the EIA Report must be carried out by suitably qualified individuals and include a contingency for the protection of species if found ( such as ground nesting birds). Furthermore, measures such as avoiding ground stripping during the nesting season in line with the methodology suggested in the last bullet point of page 45, Paragraph 6.4.3.3 within EIA report, Chapter 6 Ecology and Nature Conservation must be included in that contingency plan in the event that pre-construction verification checks identify the presence of ground nesting birds and other protected species or nesting birds and their nests.

**Reason** - To ensure that the mitigation measures proposed in the EIA Report are transferred into actionable contingency plans in the event that the pre-

construction verification check surveys identify ground nesting birds and other protected species or nesting birds and their nests.

16. In the event that the proposed cable route requires substantive tree felling, details for the transmission cables must be accompanied by a detailed tree survey and include the specific locations along the finalised cable route where trees would require to be felled and need to remain free of trees in perpetuity. This must be accompanied by a requisite scheme detailing the quantity, type and location of compensatory tree planting to account for any loss of woodland or land designated within the National Forest Inventory.

The approved compensatory woodland planting scheme, must thereafter be provided in accordance with the approved details in the first planting season following the substation and transmission cable being electrified. The applicant must notify the Council as, Planning Authority in writing within 21 days of the cable being electrified.

**Reason** - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified in the event that significant woodland removal is required.

17. 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.

18. 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) shall construction works be undertaken except where previously agreed in writing with Moray 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 order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

19. Prior to any development commencing on any agreed phase of development a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council as planning Authority. The CEMP shall include the following matters (notwithstanding other consultees may require other considerations) –



- a. A construction noise and vibration management plan including proposed measures for the mitigation of construction noise and vibration, where necessary.
  - b. A dust and air quality management plan including proposed measures for the mitigation of dust arising from construction activities, where necessary.
- All measures works identified in 19 a and b shall be implemented in accordance with the approved plans.

**Reason** - In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

20. A further Noise Impact Assessment (NIA) will require to be undertaken in accordance with BS 4142 : 2014 Method for rating and assessing industrial and commercial sound in relation to the substation. The assessment findings shall be reported in writing to and approved by the Council as Planning Authority. The approved operational noise rating levels arising from this further NIA shall not be exceeded during the operational lifetime of the development.

**Reason** - In order to minimise the impact of the development on the amenity of the surrounding area including local residents.

21. No private water supply shall be used during or post construction for any phase of the project, until details have been submitted in order that its wholesomeness and adequacy can be assessed by the Environmental Health Manager of Moray Council.

**Reason** - To ensure detailed consideration can be given to the possible use of private water supplies for the development hereby approved.

22. In the event that the wholesomeness or adequacy of any private water supply becomes affected by construction activity, all users of such supplies and Environmental Health Manager of Moray Council must be contacted to discuss remediation measures as a priority. Thereafter repair of any affected private water supply must be carried out to the satisfaction of the Council as Planning Authority in consultation with the Environment Health Manager. The Council shall be the final arbiter whether any supply has been affected by this development.

**Reason** - To ensure that the adequacy and wholesomeness of private water supplies are protected at all phases of the project.

23. Unless otherwise agreed in writing, no development shall commence on any phase until a strategy to assess and then, where subsequently appropriate, a strategy to deal with potential contamination on the finalised cable route have been submitted to, and accepted in writing by the Council as, Planning Authority. The strategies shall be devised and overseen by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', and shall include:
  - a. an appropriate level of characterisation of the type, nature and extent of contamination and accompanying risk assessment as described in

- Planning Advice Note 33 Development of Contaminated Land (Revised 2000);
- b. how any identified contamination will be dealt with during construction works;
  - c. details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use, and that it does not represent a risk to health or of pollution in the wider environment; and
  - d. a means of verifying the condition of the site on completion of the works.

Thereafter, the works shall be implemented in accordance with agreed details.

**Reason** - To ensure that the site that risks to the wider environment and future users of the site and neighbouring land from on-site contamination are appropriately assessed and managed.

24. For each phase of the development a programme of archaeological mitigation including recording, monitoring and, or excavation as appropriate will to be undertaken in accordance with a Written Scheme of Investigation to be prepared in consultation with Moray Council and Aberdeenshire Council Archaeology Service in accordance with the additional mitigation proposed in Chapter 15 'Summary of the Environmental of Impact Assessment' of the EIA Report.

**Reason** - To safeguard and record the archaeological potential of the area.

25. For either phase (cable route or substation), the following details to be submitted for consideration by Moray Council as Planning Authority in consultation with the Moray Flood Risk Management team:
  - a. Drainage Impact Assessment (DIA) for the substation area.
  - b. SUDS scheme for the substation area.
  - c. Construction phase surface water management plan.
  - d. Detailed plans and calculations showing that the capacity of all over water crossings allowing free passage of 1:200 year flow + climate change (20%).

The development must then be constructed and operated in accordance with the approved Drainage Impact Assessment and SUDS Scheme.

**Reason** - In order to allow for consideration and approval of the drainage matters specified.

26. The proposed access(es) to the trunk road shall be constructed by the applicant in accordance with the Design Manual of Roads and Bridges (DRMB). The junctions shall be constructed in accordance with details that shall be submitted and approved by the Planning Authority, before any part of the development is commenced. All necessary costs associated with the construction, supervision and safety audits, including all additional work identified by the audit as being necessary for the safety of the users of the trunk road, shall be funded by the developer.

**Reason** - To ensure that the standard of access layout complies with the current standards and the safety of the traffic on the trunk road is not diminished and to ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road.

27. Prior to commencement of deliveries to site, a Construction Traffic Management Plan including swept path analysis must be submitted to and approved by Transport Scotland to ensure that abnormal loads can be transported along the trunk road network safely. The complete report shall detail any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management etc. and show that the transportation will not have any detrimental effect on structures within the route path.

**Reason** - To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.

28. During the delivery period of the construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised Quality Audit traffic management consultant, to be approved by Transport Scotland before delivery commences.

**Reason** - To ensure that transportation will not have any detrimental effect on the road and structures along the route.

29. Prior to commencement of deliveries to site, the proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

**Reason-** To ensure that the transportation will not have any detrimental effect on the road and structures along the route.