



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
18 JANUARY 2022**

**SUBJECT: 21/01779/S36 - VARIATION TO OPERATIONAL LIFE OF
GENERATING STATION (FROM 30 YEARS TO 40 YEARS) AT
FORMER MILLTOWN AIRFIELD, ELGIN, MORAY, IV30 8NQ**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

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: Directorate for Energy and Climate Change (ECU) to vary the existing section 36 consent to construct and operate the Milltown Airfield Solar PV development which was granted consent 25 May 2018, under Section 36 of the Electricity Act 1989 (which includes deemed planning permissions). The variation sought is to increase the duration of the consent from 30 years to 40 years.
- 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 Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee;-

- i) consider and note the contents of this report; and**
- ii) respond to the consultation request from the Scottish Government, confirming that the Council does not object to the variation of the Section 36 consent as recommended; or**
- iii) if minded to object, provide planning reasons for objecting and instruct Officers to respond with those reasons formally objecting to the variation of the Section 36 consent.**

3. BACKGROUND

- 3.1 The ECU has invited Moray Council to comment on the proposed variation to the extant consent for the solar array within a specific timeframe along with other consultees. This timeframe has been agreed to be extended by a short period beyond the anticipated date of 10 January 2022 to allow for consideration of the matters by Committee on 18 January 2022.
- 3.2 Responsibility for consultation with statutory consultees, relevant Local Authorities, receipt of objections and determination lies 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 This Committee considered the previous Section 36 consultation from the ECU (17/01185/S36) on 5 December 2017, whereby it was agreed by Members to raise no objection to the proposed solar photovoltaic array subject to the conditions and informatives as recommended (Para 6 minute refers).
- 3.4 The applicants have now sought to vary condition 14 of this previous consent to allow the operation of the solar array for 40 years rather than 30 years, before then having to remove the solar array from the site and restore the land.

4. PROPOSALS

- 4.1 The applicants have outlined the following in support of this proposed variation:
- Since the application was granted in May 2018, considerable momentum has gathered behind the urgent need for further action to be taken on climate change. In April 2019, Scotland's First Minister declared a 'Global Climate Emergency'. On 29 June 2019 the Moray Council also declared a climate emergency. This declaration was followed by the Council announcing a target of net-zero carbon emissions by 2030 with respect to council activities, and a commitment to develop and adopt a Climate Change Strategy;
 - Large scale Solar PV is now a proven technology and a significant and positive contribution to the energy supply. There is no technical reason for discontinuing this plant after 30 years given the low levels of degradation of the equipment. The additional 10 years therefore reduces unnecessary waste, maximises the benefits of the renewable energy infrastructure, and provides security of supply, all contributing to efforts to address the Climate Emergency;
 - In this case there are considered to be no additional environmental impacts as a consequence of extending the life of the permission. There will be positive economic impacts however in the form of

continued employment to monitor the operation and provide maintenance of the plant.

- 4.2 For the avoidance of doubt, the applicants do not propose to vary any other aspects of the consented scheme and therefore the scope of this request for variation is limited to the consideration of the timeframe of the consent only. In light of the above it is considered reasonable to raise no objections to the request to extend the operating life of the solar PV development.

5. **SUMMARY OF IMPLICATIONS**

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

Promoting renewable energy opportunities in the right locations, whilst safeguarding Moray's environment helps to deliver corporate and community planning objectives.

(b) Policy and Legal

The proposed variation made under S.36 of the Electricity Act 1989 to the ECU. If granted, planning permission is deemed to be granted for the development. If granted by the 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 the 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 considers the Council has acted unreasonably in raising an objection.

(d) Risk Implications

If the Council decide not to respond within the agreed period it would be open to the 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. Officers do not consider there are planning grounds to justify an objection as set out in the remainder of this report

(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) Climate Change and Biodiversity Impacts

The proposal represents an opportunity to extend the lifespan of the renewable energy generated by the solar array by a further 10 years without the need for additional construction materials or carbon emissions, therefore this proposal is considered to be wholly positive in terms of carbon emissions and contributions towards addressing climate change.

(i) Consultations

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Development Management and Building Standards Manager, the Equal Opportunities Officer, the Strategic Planning and Delivery Manager, and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

6. CONCLUSION

- 6.1 Taking into account the relatively narrow scope of this proposed variation, which relates only to the timeframe of the extant consent and the supporting case put forward by the applicants, the proposal to allow the 40 year operation of the solar array will increase renewable energy generation without any additional environmental impacts.**
- 6.2 As such, in responding to the request for consultation, it would be appropriate for Moray Council to advise the Scottish Government that it wishes to raise no objection to the proposed variation of the extant consent for the solar PV array at Milton airfield, to increase the duration of the consent from 30 years to 40 years.**

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