



**Planning Committee**  
**Council Chamber, Town Hall, Lerwick**  
**Tuesday 27 September 2016 at 2pm**

**Present:**

F Robertson            S Coutts  
B Fox                    A Manson  
D Sandison

**Apologies:**

P Campbell            M Bell  
G Robinson

**In Attendance (Officers):**

I McDiarmid, Executive Manager – Planning  
J Holden, Team Leader – Development Management  
C Gair, Traffic and Road Safety Engineer  
A Melkevik, Planning Officer  
C Summers, Planning Officer  
P Sutherland, Solicitor  
L Adamson, Committee Officer

**Chair**

Mr F Robertson, Chair of the Planning Committee, presided.

**Circular**

The circular calling the meeting was held as read.

**Declarations of Interest**

None

14/16        **Minutes**

The Committee confirmed the minutes of the meeting held on 25 August 2016 on the motion of Mr Sandison, seconded by Mr Fox.

15/16        **2016/098/ECUCON: Section 36 Application for Wind Farm of up to 17 Turbines in Beaw Field, Burravoe, Yell by Peel Wind Farms (Yell) Ltd**

The Committee considered a report by the Planning Officer – Development Management [RECORD Appendix 1 PL-10-16-F]. The report concerns an application under Section 36 of the Electricity Act 1989, where the Council is required, under the terms of the process, to lodge a formal consultation response to the Scottish Government.

The Chair explained that the ultimate decision on this application rests with the Energy Consents Unit (ECU) of the Scottish Government as the installed capacity of the wind farm is over 50MW. The Council is a

consultee to the Scottish Government in respect of the application, and is required in due process to submit their consultation response. This exercise provides the opportunity for the Council to include planning conditions that they consider are required under the Council's agreed Policies within the Local Development Plan, to ensure the development will be carried out in an environmentally acceptable manner. He said that monitoring of these conditions will fall to staff within the Council's Planning Service.

The Chair advised that this is a major development, due to the area, magnitude and complexities of the proposal, and he commended the Planning Officer on the excellent report presented to Committee. The Chair added that he had attended the site visit yesterday, and he therefore appreciated the implications of the wind farm on that particular area of Shetland.

The Planning Officer (A Melkevik) gave a presentation, which included views of the application site, the location plan, and the key issues slide as set out below:

- Application under Section 36 of the Electricity Act 1989.
- Construction of up to 17 wind turbines with an installed capacity of over 50MW.
- Located to the north of Upper Neepaback and to the south of Gossabrough.
- Landscape Sensitivity and Capacity Study for Wind Farm Development on the Shetland Isles – very large category or large group category.
- Calculations show that wind farm will not produce noise levels over the accepted level.
- Shadow flicker has the potential to affect certain properties during certain times of the year. It is proposed to shut down the turbines which will cause the shadow flicker during these times.
- Further information submitted has removed SNH's initial objection in regard to breeding birds
- Scatsta Airport and BP as the licence holders for Scatsta Airport have objected in relation to air safety and the operational impact on Scatsta.
- Delting Community Council enquired if their area would get community benefit from the wind farm however the Council does not have any policies for this.
- An additional condition is recommended that:  
“Prior to the commencement of the Development hereby permitted the developer shall provide to the Planning Authority documentary evidence that a proposal is in place with the Roads Authority to cover the additional cost of repair to public roads due to abnormal wear and tear arising from a level of use and purpose that is attributable to the Development, and written confirmation has been given by the Planning Authority to the developer that the proposal is satisfactory. The proposal shall cover the duration of this permission”.

During her presentation, the Planning Officer advised on the following: "This is an application under Section 36 of the Electricity Act 1989 where the Council are a consultee to the ECU of the Scottish Government. It is an application for up to 17 turbines with a generating capacity of over 50MW. The turbines will be a maximum height of 145m to the tip of the blade (reduced from 165m). The 2009 Landscape Sensitivity and Capacity Study for Wind Farms Development states that a wind farm of this capacity would be "very large" however due to the advancement of technology 50MW can now be generated with less turbines and so this wind farm should be categorised as a "large group" which the area has capacity for.

Visual impacts will mostly be experienced by people within 5km of the wind farm. Whilst view is not a material consideration the majority of properties in the immediate area face out to sea away from the wind farm. In some locations under certain circumstance the wind farm may be audible but will still be within the acceptable levels and no objection has been raised by the Council's Environmental Health Department. Shadow Flicker has the potential to exist at certain times of the year in certain weather conditions. Mitigation has been offered that the turbines which cause the flicker will shut down at these times.

SHN consider that the cumulative assessment of the effect of the development on the population of a number of breeding bird species has been adequately assessed and it was concluded that all the species concerned will continue to meet the conditions for maintaining their conservation status. SNH has welcomed the proposal to use peat excavated during construction to restore degraded blanket bog and SEPA removed their objection on the appropriate reuse and management of peat on the site.

The development is out with Scatsta safeguarding area. Conditions have been recommended including new In Flight Procedures, final positions with horizontal clearances and hazard lighting.

Due to a late consultation response we are recommending one further condition which is not in the annex of suggested conditions. *"Prior to the commencement of the Development hereby permitted the developer shall provide to the Planning Authority documentary evidence that a proposal is in place with the Roads Authority to cover the additional cost of repair to public roads due to abnormal wear and tear arising from a level of use and purpose that is attributable to the Development, and written confirmation has been given by the Planning Authority to the developer that the proposal is satisfactory. The proposal shall cover the duration of this permission".*

In making the recommendation for No Objections the Planning Service has prepared a schedule of conditions, and this together with the additional condition that has been recommended is what would be forwarded to the ECU as the Council's response. It is likely that as the ECU proceeds as officers we will be asked to engage in discussions regarding the wording of possible conditions. We would only propose to do so on the basis that the requirements and obligations the Council

would wish to see imposed with a grant of deemed permission are not significantly changed.”

The Chair commented that with the additional condition relating to the repair to the public roads, a total of 50 conditions would now be submitted to the Scottish Government in respect of this development.

In referring to Condition 2, which included the requirement for the developer to put forward details on decommissioning and restoration of the site at the end of the project, the Chair enquired whether this type of condition would be classed as a ‘Bond’ to be in place before the work starts. The Team Leader – Development Management advised that a Bond is a financial agreement, like an insurance policy. However he said that as long as an agreement can be reached between the Planning Service and the developer that can be relied on, the reinstatement and restoration of the development site would be assured.

The Chair said that the condition relating to the appointment of an Ecological Clerk of Works was extremely positive in this case, as the Clerk of Works will keep a watching brief throughout the complete development.

In response to a question regarding the extent of the roads to be surveyed for potential damage, the Planning Officer advised that the roads would be surveyed from the ferry terminal in Yell.

The Chair said that while this was not a regular meeting of the Planning meeting, or a hearing, as the Committee today were considering proposals for a major development there could be a degree of flexibility in terms of the process. In that regard, he advised that representatives from Peel Energy were in attendance at the meeting, and could be called on to answer any technical questions.

Mr Fox commented on the extensive amount of information relating to this application on the Council’s website, which he advised included 338 separate documents. Mr Fox said that the energy efficiency is given as 46.3%, and the proposed development would have an installed capacity of 57.8MW.

In referring to Condition No. 41, in terms of residential amenity, which stated that “....any turbine producing ‘shadow flicker’ effects at any affected premises which is occupied at the time shall be shut down and the blades remain stationary until the conditions causing those ‘shadow flicker’ effects have passed”, Mr Fox enquired on the means to shut down the turbines, and the affect from the shut down on the whole business case of the project. Ms B Barry, Project Manager, advised that Peel Energy have reviewed the shadow flicker in quite a bit of detail. She explained that shadow flicker is very predictable and therefore arithmetical calculations can be made. She advised that software will be installed in the turbines to assess shadow flicker across the year, which will shut down turbines for however long the shadow flicker could be taking place. Ms Barry said that this would not have a

huge impact on the energy efficiency of the project, and has been taken into account in their business plan.

Mr Fox said that his main concern related to environmental issues, however he commented that he has been down that route before. He then advised of his concern that turbines would be within 2km distance of the nearest property.

Mr Fox referred the Committee to the objection relating to Scatsta Airport, and he questioned whether the concerns raised could be mitigated easily, and said that he was uncomfortable that Peel Energy considers that the issues could be easily sorted. In that regard he highlighted the following from the letter of representation received from Serco, *"Scatsta airport operates all year round, regularly extending operating hours to evenings and weekends, and often functioning in adverse weather conditions, with between 14,000 and 20,000 fixed and rotary wing aircraft movements per annum. Significant investment has been made in the last 5 years to upgrade navigational aids and introduce primary and secondary radar feeds as well as Instrument Flight Procedures (IFP) currently lodged with the Directorate of Airspace Policy (DAP) to allow for the introduction of the necessary procedures. Topographical constraints together with a relatively short and narrow Code 3 C runway and challenging weather conditions mean that all navigational aids, primary and secondary radar feeds and established procedure must be carefully balanced and fully utilised". "Appendix 21.5.2 of the Report rightly acknowledges that the instrument approach procedure "will be significantly adversely affected by the operation of the wind farm". Any amendment to IFPs would require a review in accordance with the safety management system, risk assessed by Scatsta Airport stakeholders before being submitted and approved by the DAP. This is a time consuming process which can take approximately 12-18 months from initial submission to approval (with such approval not being guaranteed)".*

In referring to Section 2(c) of Serco's letter of representation, "Minimum Obstacle Clearance Altitude (MOCA)" Mr Fox highlighted the following: *"The current position of the wind turbines will result in a MOCA increase from 1700ft to 2000ft on the outbound leg of the IFP and a MOCA increase from 1005 to 1500 ft on final approach. Any increase in procedure altitudes in this critical phase of flight will result in heightened complexity of approach and associated flying risk". "The IFP Report also contains inconsistencies with regard to the adverse effect of the turbines on Scatsta airport operations, which is highlighted in the IFP report (paragraphs 7.4 and 7.6); where with the presence of the turbines the MOCA would increase from its current value to be rounded up to 1400 ft and 1500ft respectively."* Mr Fox said that while he was content with Condition No. 37, he considered that as a Council there was a need to reinforce that condition. Mr Fox said that Scatsta Airport services Sullom Voe Terminal and offshore fields, which is significant in terms of national importance. He said that the Council, in any report to the ECU, should endorse the objections from Serco, where he echoed that while he was happy with Condition No. 37, he did have reservations that the requirements could be met.

Ms Barry, Project Manager, advised that Peel Energy have developed experience in dealing with airports across the UK, and in terms of this development have been in consultation with Serco, Scatsta Airport and BP over the last two years. Ms Barry said that Peel Energy are confident there are technical mitigations that can be put in place for this. She said that the condition has been discussed fully, which gives confidence that no turbines will be erected until the submission has been agreed to address the concerns. Ms Barry said that this cannot be done until such time as detail is received on the position of the turbines and provided to the CAA and Serco for their approval. In terms of micro-siting, she advised that the entire development is outwith Scatsta Airport's own safeguarding area. Ms Barry advised that the condition proposed relates to one flight procedure, where she said there is a fix here. Mr Fox commented that in terms of re-siting the turbines, there was not a lot of room to move the turbines other than to the west.

Mr Fox enquired on the proposals for community benefit, with the installed capacity of 57.8MW. He referred to an e-mail received last week from Peel's Mr Ferguson, who advised on community benefit being £5k per installed MW. Ms Barry advised that the installed capacity has not yet been agreed, although the application was made for over 50MW, and 57.8MW is proposed. In that regard she advised that with each turbine at 3.4MW, and 17 turbines equals 57.8MW times £5K, the sum will be something approaching £300K. Mr Fox said that Mr Ferguson's reference to £375K in his email was therefore an exaggeration.

Mr Coutts advised on the whole raft of documents on the website, however he said that his focus was on the issue of peat, where he noted the representation from the Shetland Biological Records Centre (SBRC) and their views on the Environment Statement and the presence of blanket bog. In that regard, he questioned whether Peel Energy had any more views on the issues they had raised. Mr Barry said that Peel Energy submitted further environmental information, including a Peat Management Plan, to explain peat restoration, which she said will hopefully go some way to satisfy some of the comments made by the SBRC. She said that peat restoration is an ever evolving area that Peel Energy are happy to continue to monitor, and in terms of new technologies.

Mr Coutts advised on his understanding of a Section 36 application in terms of the Peat Management Plan, where peat would be looked at in more detail by the ECU. The Team Leader – Development Management advised that in developing the recommended conditions and submissions needing to be made under them, the Planning Service has taken technical advice from SNH and SEPA as well as the Council's Heritage Officer, and that the Council will have the duty to monitor and enforce such conditions. The Executive Manager – Planning advised that the process is the same to any other application, however the Planning Authority do not get to make the decision, but the decision ultimately results in the Planning Service monitoring the conditions. The Chair said that should the project go ahead, it is the

responsibility of the Planning Officers to ensure that the 50 conditions are adhered to. In that regard, Mr Fox advised of his concern with the Local Authority being under resourced with only one Enforcement Officer who is already hard pressed to deal with domestic permissions. He stated that the Council will get no additional resources, even though this development is considered to be of national importance.

Mr Fox enquired whether there was an estimate of how much it has cost the Planning Service to process this application and on the fee received. The Chair commented that there was a different fee process for this type of applications. The Team Leader – Development Management advised that the fee calculations are available on the ECU's website, however the Local Authority has received a one off fee for the lifetime of the project, which without having the detail of the exact sum to hand had been in the order of £10-£15,000. The Chair confirmed that monitoring and enforcement is an area that has been raised with the Head of Planning.

The Chair thanked the Planning Officer and Ms Parry for the information provided.

Mr Coutts moved that the Planning Committee raise no objections to the Section 36 proposal, and agree this report as the Council's formal consultation response to the Scottish Government, subject to the conditions listed in the schedule appended to the report, and the additional condition relating to repair to the public roads. Mr Sandison seconded.

Mr Fox enquired whether particular mention could be made to the objection from Serco, in terms of the Council's concerns. The Executive Manager – Planning said that any additional comments can be made, where he suggested that the full minute of the meeting could be submitted to the ECU. In that regard, Mr Coutts, said that he supported the proposal for the full minute to be sent to the ECU, and this received the consent of his seconder.

**Decision:**

The Committee raised no objections to the Section 36 proposal and agreed this report as the Council's formal consultation response to the Scottish Government, subject to conditions listed in the schedule appended to the report, and the additional condition relating to the repair of the public roads. It was further agreed that the full minute of the meeting would be submitted to the ECU.

16/16

**2016/280/PPP – To Erect 2no Dwellinghouses (Planning Permission in Principle) at Straits, Mossbank, Shetland ZE2 9RB by Shetland Islands Council**

The Committee considered a report by the Planning Officer – Development Management [RECORD Appendix 2 PL-09-16-F].



The Planning Officer (C Summers) gave a slide presentation, which illustrated the Location and Site Plan, Views of the Site, and the Key Issues.

During the presentation, the Planning Officer advised on the following, "This is an application for planning permission in principle for two proposed dwellinghouses on a site at Straits, Mossbank. The application includes the creation of a new access onto the main road and connection to the public sewer, no details were received in relation to a sustainable drainage system but this would be submitted and assessed at a further application stage.

Shetland Local Development Plan Policies on housing development H3 and H5 set a hierarchy for the development of sites for housing that establishes an order of development priorities aimed to create vibrant and sustainable communities, making the best use of existing infrastructure and avoiding the scattering of scarce resources, and isolated development in the open countryside. Development is supported by these policies if it fits well into the surrounding landscape and settlement pattern.

This proposed site lies within a well developed settlement and on an area of undeveloped land which is well related to other housing and other developments in this area. It is considered therefore that there is no conflict with Policies H3 and H5. Policy GP3 states that all new development should be sited and designed to respect the character and local distinctiveness of the site and its surroundings. The development of two dwellinghouses on this site would contribute to all the points set out in Policy GP3, therefore the principle of two dwellinghouses in this location complies with Policy GP3.

A new access is proposed to be formed from the east of the proposed site onto the existing main road. The Council's Roads Service was consulted at the outset of this application and raised no objections. The Roads Service did however list the requirements for a safe and adequate access and parking in accordance with current standards. These requirements can be notified to the applicant on a decision notice for approval of the application and attached as conditions on any subsequent detailed applications for the site. In this respect the proposal complies with the requirements laid out in Policy TRANS3 as well as Policy GP2.

The Delting Community Council has raised concerns in connection with the proposed development regarding the access to the site. Their concern is that the proposed access is too close to an existing access on the other side of the road leading into the Burraness housing scheme and the loop road by Braehead. The Community Council suggested that the proposed development be moved up the road nearer to the boundary between the Straits and the Pund. As the Council's Roads Service raised no objections to the position of the proposed access to this site the need to move the site is not required for the proposal to comply with the relevant development plan policies. If the site were to be moved a new application would be required and a new

assessment carried out.

No objections were received in relation to this application and no safeguarding issues have been triggered.

It is therefore recommended that subject to controlling conditions the development of this site to provide two dwellinghouses will not have a detrimental impact on the existing settlement pattern. Provided that a high standard of design is executed following on from any future application for approval of matters specified in conditions to ensure that: the scale, form and design of the dwellinghouses respects and enhances those of the existing built form and landscape; and that access, parking and turning arrangements are designed in accordance with the Roads Service comments and appropriate policy, the proposal will have no adverse impact upon the natural and built environment or upon the amenity of neighbouring properties. Therefore the proposal is considered to comply with the Shetland Local Development Plan (2014) Policies GP1, GP2, GP3, H3, H5, WD2, and TRANS3”.

The Chair thanked the Planning Officer for the information provided, and said that the Committee is to consider this application due to the concerns raised by the Community Council on the road access. The Chair then welcomed any questions from the Committee.

Mr Fox said that Scottish Water has, yet again, not responded during the consultation process, and he referred to the requirement, should this proposal go ahead, to connect to the public sewer. In that regard he said that the public sewer only comes to Burraness, and he enquired whether the developer would effectively have to pump sewerage. The Planning Officer advised that the application was for planning permission in principle, where the connection to the public sewer would be addressed during the detailed application stage.

In response to a comment, the Executive Manager – Planning said that the reason for the Council selling the sites was not a material planning consideration, and he confirmed that all applicants and landowners are treated the same during the planning process.

On the motion of Ms Manson, seconded by Mr Fox, the Committee approved the application, subject to the conditions at Appendix 2.

**Decision:**

The Committee **APPROVED** the application, subject to the schedule of recommended conditions.

The meeting concluded at 2.55pm.

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Chair

