

# MINUTE

# A & B

**Special Shetland Island Council  
Main Hall, Town Hall, Lerwick  
Wednesday 2 February 2011 at 10am**

**Present:**

A J Cluness L F Baisley  
J Budge A T Doull  
B L Fullerton R S Henderson  
J H Henry A J Hughson  
R C Nickerson F A Robertson  
J G Simpson J W G Wills

**Apologies:**

L Angus I J Hawkins  
C H J Miller C L Smith

**Also:**

F B Grains

**In Attendance:**

G Greenhill, Executive Director – Infrastructure  
I McDiarmid, Head of Planning  
N Grant, Head of Economic Development  
J R Riise, Head of Legal and Administration  
B Hill, Acting Divisional Manager – Legal  
J Holden, Development Management Manager  
R MacNeill, Planning Officer  
C Gair, Traffic Engineer  
F Bell, Solicitor  
T Morton, Communications Consultant  
A Cogle, Service Manager – Administration  
L Adamson, Committee Officer

**Chairperson**

Mr A J Cluness, Convener of the Council, presided.

**Circular**

The circular calling the meeting was held as read.

**Declarations of Interest**

Dr J Wills stated that Members should declare an interest in this application as Trustees of the Shetland Charitable Trust. Dr Wills said that he proceeded with clear legal advice from the Legal Officer, that the Shetland Charitable Trust has an irreconcilable conflict of interest in this application, and applications similar to this, being a major development of national interest. Dr Wills moved that the Council refer the application to the Scottish Government for

determination, and that it should not be discussed at the meeting today. The Head of Legal and Administration confirmed that he had not tendered advice to Dr Wills, in respect of this application.

Mr F Robertson indicated that Members are to consider this application, where the Council has an interest as outlined in Section 9.1 of the report. He explained that under the Planning etc. (Scotland) Act 2006, Local Authorities sitting as Planning Committees are given the right to consider applications and make determinations where the Council is the landowner, the Council has a financial interest and an agreement with the particular developer or applicant, and that is the situation for consideration today. He said that Members have to consider whether or not to approve or reject this particular application from an independent developer applying to build this Converter Station, and under the Planning etc. (Scotland) Act 2006, Members of the Planning Committee are required to declare their interest in that terms. Mr Robertson confirmed that he declared an interest in that respect, and would take part in the process today. Mr J Simpson, Mr A Doull, Mrs B Fullerton, Ms L Baisley, Mr J Budge, Mr R Nickerson, Mr R Henderson, and Mr A Cluness advised that their interest in this application was the same as Mr Robertson's declaration.

Mr A Hughson declared an interest, as his son's business was a contractor to Scottish and Southern Energy. He clarified that he received no financial benefit however there could be a perception that he does, and therefore he would not be taking part in the meeting.

Mrs F Grains advised that she intended to speak on behalf of the Tingwall, Whiteness and Weisdale Community Council, however she indicated that she would take part in the meeting should it look to become inquorate.

Mr J Henry declared an interest as Vice-Chairperson of Shetland Charitable Trust.

In response to questions from Mrs Fullerton, the Head of Legal and Administration said that any project could have some financial investment from the Council, and as Mr Robertson had advised, as long as in declaring their interests Members' recognise that there were current Local Authority interests, and also possible future ones, but that did not prevent Members determining the merits of this application. The Head of Legal and Administration confirmed that this was an independent application, and it could be argued that downstream the Trustees of Shetland Charitable Trust have an interest in using the infrastructure. However neither Shetland Charitable Trust nor Viking Energy Ltd were the applicants here. Therefore Members should include being a Trustee of Shetland Charitable Trust in their declarations of interest but should consider the remoteness of the interest, and whether that allowed Members to take part in this debate. Mrs Fullerton confirmed that having received that advice, she would be taking part in the meeting.

Dr Wills stated that the answers received did not deal with the problem, and he stated that if the conflict of interest is remote there is a clear public perception of an interest. He said that should the application be approved or not be approved, there would be massive financial implications for the Shetland Charitable Trust, standing to make a significant financial gain. Dr Wills said there is still a perception of a conflict of interest, and that is why he moved that the application should be referred to the Scottish Government for determination.

Dr Wills' motion did not receive a seconder.

*(Dr Wills, Mr Henry and Mr Hughson left the meeting).*

01/11 **2009/224/PCO – Formation of Development and Erection of Electricity Converter Station, (Planning Permission in Principle) Upper Kergord, Weisdale by Scottish Hydro Electric Transmission Limited (SHETL).**

The Planning Officer advised that with the size of the site, the application is considered to be a major development and has been the subject of an Environmental Impact Assessment. The site is situated to the western side of the Kergord valley and is set on the lower slope approximately 100m from the Weisdale burn. A level development platform is proposed to be formed, with a total area including surrounding slopes of approximately 5 hectares, and the total construction work area is approximately 14 hectares. He advised that, as this is an application in principle, the indicative style of the buildings required have been submitted. Transformers and related electrical plant will be enclosed in large metal-clad buildings; each one will be up to 150 metres long by 40 metres wide, and 22 metres in height. One building is required for each of the two proposed HVDC circuits, and there will be a storage building for a spare converter transformer.

He reported that a number of objections had been received on the grounds of environmental impacts, visual impacts and amenity issues. The Scottish Environment Protection Agency (SEPA) registered an objection on environmental grounds, but qualified this by asking that further information relating to pollution prevention and environmental management be required by planning conditions attached to any consent, which will enable the removal of the objection. Conditions regarding the provision of an Environmental Management Plan are recommended in the report.

The Planning Officer advised that at the meeting of the Planning Board on 21 April 2010, it was decided to agree with the recommendation of the Head of Planning to defer making a determination until such time as the Section 36 application for the Viking Energy Wind Farm is determined, and the issues of carbon payback examined in the findings of the Scottish Government, when this application can be assessed properly in light of these findings. Or, if relevant assessments become available that enable the Planning Service, with assistance from a part of the Government or its agencies, to reasonably arrive at a conclusion on the full environmental impact of the proposal in terms of the issue of carbon emission losses and savings in relation to the development - both individually and in combination with other developments being proposed.

He reported that SEPA have now made further comment on the matter of carbon balance associated with the proposal, and this has allowed the Planning Service to review the proposal in light of their comments, *"It is Scottish Planning Policy that where peat and other carbon rich soils are present, applicants should assess the likely effects associated with any development work. SEPA does not currently undertake audits of carbon balance assessments, and our role in this area is still subject to ongoing discussions between SEPA and the Scottish Government. Hence I stress that we have not carried out a detailed, technical audit of the submitted information. However, we have reviewed the documentation relating to carbon balance aspects of the project. We consider that the applicant has reasonably assessed, in the context of the presence of peat, the likely effects associated with the development. Factors taken into account include consideration of alternative locations, relationship of this project to the proposed windfarm, potential mitigation measures (to be developed further in the course of the development) and use of conservative figures in carrying out the assessment."*

*Overall, we consider that the applicant has considered the likely effects in a balanced and reasonable manner, and we would advise the Planning Authority to accept that this issue has been satisfactorily addressed in this case."*

The Planning Officer advised that overall the Planning Service has considered in making a recommendation to Council, whether the resultant visual intrusion and potential environmental impacts are considered to be acceptable because of any perceived environmental advantages that the development may bring, when linked to the provision of renewable energy projects, and particularly that of the Viking Energy Wind Farm proposal in the first place. The development is considered to be "in principle" acceptable in ecological and visual terms, subject to the recommended mitigation measures being fully implemented, and the Planning Service are recommending the application for approval.

The Convener invited representatives of the objectors to make their statements to the Council.

Mr K Learmonth, Vice Chairperson of Sustainable Shetland, advised that this objection to the Converter Station application was made on behalf of the 767 members of Sustainable Shetland. In referring Members to Section 1.8 of the report, he highlighted the Head of Planning's original recommendation to defer making a decision on the application until such time as the Section 36 application for the Viking Energy Wind Farm is determined, and he stated that the decision on the Section 36 application has not been made. He said that the response from SEPA in qualifying their objection does not address the issue of carbon payback, nor does it mention that SNH upheld their objection, and he stated that there would be environmental damage. He stated that the Scottish Government is yet to determine the carbon impact.

Referring to Section 7.15 and 7.16 of the report, which advises on the potential greater environmental good achieved by the introduction of an energy converter station, he said that the Planning Service had recommended refusal as the application did not meet the Environmental Plan standards, and on the basis of financial interest it is difficult to understand how the two things can be reconciled. Mr Learmonth said that he believed the original recommendation from the Planning Service, to wait until the Section 36 application is determined, is still valid.

Mr Learmonth said that Viking Energy, the main project applicant, abandoned their carbon model by the Scottish Government and went with their own one, and it is difficult to know whether the original Viking Energy model or the new one is being referred to. He said that as far as the environmental information is concerned, nothing has changed.

Mr Learmonth commented that four Councillors have already decided not to take part in this meeting as they are involved in Viking Energy, one being the Project Co-ordinator and the other three being Directors. He said it was the Trustees of SCT that appointed the Project Co-ordinator and Directors, the Trustees are ultimately responsible for their actions and decisions. Being part and parcel of the Viking Energy application makes Members in centre stage in their involvement of Viking Energy, and in this application, as SCT owns 90% shares in Viking Energy and the appointed Directors sit in that partnership.

In referring to this application, Mr Learmonth advised that there was mention that part of the compound could be used for Viking Energy storage, and that makes Members

very concerned with what happens with this application. Scottish and Southern Energy, the applicant, is a partner in the Viking Energy Wind Farm, and it is known that the Wind Farm can only go ahead if this Converter Station is constructed, and this puts Members at centre stage of having an irreconcilable conflict of interest.

In referring to the declarations of interest made today by the majority of Councillors, Mr Learmonth commented that there was one Member taking part who is involved in proposals to build a wind turbine in Cullivoe, and he had not declared that interest.

Mr Learmonth concluded by saying that a decision made today would be premature, and he asked Members to defer making a decision until the Section 36 application is determined.

In referring to Mr Learmonth's earlier comment, Mr R Henderson clarified that he was a Director of the North Yell Wind Project, however the project did not rely on the interconnector cable to move ahead.

The Convener invited Mrs F Grains to address the meeting, as an advocate for the Community Council. The Head of Legal and Administration explained that Councillor Grains had previously decided to adopt the role as advocate for the Tingwall, Whiteness and Weisdale Community Council, and would therefore take no part in the debate, or any vote or decision on the application.

Mrs F Grains confirmed that she was representing the Tingwall, Whiteness and Weisdale Community Council. Mrs Grains said that the Council appreciates the work Community Councils do for their communities and hold them in high regard, and today is an opportunity to find out the actual level of esteem that the Council holds for people in Community Councils.

Mrs Grains reported that Tingwall, Whiteness and Weisdale Community Council unanimously agreed to vigorously oppose the application, but questioned whether the Council will listen to the Community Council's view and that of the local people, or dismiss the views to be irrelevant. She said that all Community Councils would be very interested to see how the Council looks on Community Councils.

Mrs Grains advised that the Community Council was objecting to the application, as the development is massive and totally out of scale. The Community Council cannot understand how SNH have not objected to the proposals, other than for a Clerk of Works to be appointed to minimise the impact of the project, and it will be interesting to see how the impact can be minimised, particularly with the site being in open countryside. She referred to the developer's proposal to screen the development with trees, and commented that with the trees in Kergord had been planted in 1901 there will be quite a wait until the buildings can be screened by the trees. Mrs Grains said that the Kergord valley is the worst site that could be considered for this development, and it should by rights be designated as a National Park due to its outstanding landscape. Mrs Grains said that Shetland is now internationally recognised for its Geopark status, and Shetland Geotours utilises Kergord valley for some of its tours, and she questioned whether visitors would want to see this massive building in place.

Mrs Grains said that she was not opposed to the principle of the development, but it should be built in an industrial area of Lerwick, however she questioned whether Kergord was the cheaper option. Mrs Grains said that the Community Council were very concerned with the proposals for the roads and the increase in vehicle numbers. She said that the development will take years to build, and the only community benefit

being considered by the developer is to leave a passing place. Mrs Grains said there was no detailed information on the proposals for the roads, with the detail only to be considered prior to construction, and the external lighting is only to be considered following construction.

Mrs Grains said that SEPA's comments do not inspire confidence, it was concerning that no one can give a conclusion on environmental issues, and she noted that Scottish Water who had been consulted during 2009, had not responded.

Mrs Grains stated that this was a massive development, which would be a departure from the Local Plan, and the Kergord valley was not zoned for industrial development. She questioned why any weight could be given to the Local Plan and Structure Plan, when they are ditched as soon as something comes up, and she added that the Main Issues Report might as well be disregarded. Mrs Grains stated that this application cannot be assessed environmentally, the land is not zoned for industrial use, the proposals are against Council Policy, and the decision is therefore obvious. In noting the comment in Section 7.16 of the report, that the conclusion reached is that there is money in the project, Mrs Grains said that you can otherwise forget about any visual impacts, environmental impacts, destruction of the landscape, the impact on the Weisdale burn, on the fish and the hatchery, as far as this application is concerned.

Dr A Say, representing SHETL, confirmed that she was not the consultant of the Environmental Impact Assessment (EIA) commissioned by SHETL. The EIA had been carried out by an independent adviser, to ensure the environmental issues are met, the project follows best practice and is robust. She advised that most developments have impacts, however essentially it is important that each development has as least impacts on the environment as is possible.

Dr Say advised that SHETL had submitted the application in July 2009, and were very pleased with the recommendation from the Planning Service. She explained that representatives from SHETL had been unable to attend the Planning Board in April 2010 due to the disruption to flights with the volcanic eruption, and the Council meeting in December had been cancelled due to bad weather.

Dr Say explained that SHETL is a registered business that operates under a Licence, and is obliged by law to provide and facilitate communications in the supply of electricity, and the company therefore has to respond to the request from Viking Energy for the connection. SHETL will have due regard for environmental issues and will endeavour to mitigate impacts. She advised that during the last 4-5 years SHETL has undertaken extensive works to find the most suitable site for the Converter Station, with a number of sites being considered, with statutory consultees and local communities being consulted. Dr Say explained that a Converter Station must be situated where it is likely to be required, and the Viking Energy Wind Farm has been a key factor in the location, to ensure as little environmental impact as possible, where it best meets the needs and impacts on the environment can be controlled. She added that it had been important that the site of the proposed Converter Station is on land already modified by mans' activities in terms of carbon balance, as the bog will already have lost its carbon holding capacity.

Dr Say advised that SHETL would mitigate the large development where possible, and will work to mitigate impacts as the development progresses. She advised that on the issue of carbon balance, the Council's Planning Service did not have the in-house expertise, however further information was provided and the EIA was undertaken by a

different company. All information received by SEPA, which is a Government Agency is acceptable on carbon omission.

In response to the questions raised earlier in the meeting, Dr Say advised that SHETL had considered alternative locations for the Converter Station at both Lerwick and Sullom Voe, however these sites were found to be unsuitable as they would be uneconomic with additional environmental impacts for the infrastructure that would be required. Due to the location of the Viking Energy Wind Farm the voltage would have to be stepped up to any other Converter Station location, with pylon lines and the laying of cables also required. She explained that this application was being considered in advance of the S36 determination, as SHETL had submitted the application for the Converter Station some 18 months earlier, and a decision on the application would allow SHETL to stop working on this particular part of the process. She said that if the decision today was not positive, SHETL would need to consider the processes to inform an enquiry, and if consent is given, SHETL can better test the market, which could bring environmental benefits.

Dr Say explained that there were proposals to reduce the height of the buildings to 15-17 metres to the eaves, instead of the 22 metre worse case scenario, which had been included in the application. She said that it was important to recognise that the concrete platform would be covered as much as possible, and the planting of woodland will provide local biodiversity benefits. Dr Say concluded by advising that the Converter Station will only be built if the Viking Energy Wind Farm proposals are consented, as SHETL have received no other requests for a connection.

Mr Robertson said that as the matter of carbon balance had also been raised at the Planning Board meeting on 21 April 2010, he asked for clarification as to whether the Planning Service was content with the further information received from SEPA. The Head of Planning advised that the carbon balance issue had been considered during assessment of the application, and had been raised as an issue in a number of the representations received. He explained that in the first report to Planning Board in April 2010, the Planning Service had concern that a formal assessment had not been carried out regarding the carbon payback issue, and hence the original recommendation. However, the original recommendation had included that when the application can be properly assessed for carbon payback, the Planning Service would be able to assess the merits of the proposal. He said that SEPA are the Scottish Government department to take responsibility for carbon payback matters, and they have looked at the submission regarding carbon payback issues, and their conclusion is included in the report. The Head of Planning said that the Planning Service consider that the issue has been fully assessed by the appropriate body and are content with their assessment.

Mr R Nickerson referred the to Conditions on pages 16 and 17 of the report, and stated that the robustness of the conditions were important to this application, particularly to minimise the impacts the development may have on the small businesses in the area, downstream of the project. Mr Nickerson said there was a need to get reassurance on Condition 6(a), and regarding the first bullet point, he stated that this condition should be enhanced to include regular sampling and testing for silt to ensure it is robust.

Regarding the condition that "Development shall not commence until the PEMP has been approved by the Planning Authority in consultation with the Scottish Environment Protection Agency", Mr Nickerson said that he understood that SEPA has regulatory control of our waters and undertakes an enforcement role. He also referred to

condition 6(l) that “arrangements for the appointment of suitably qualified and experienced professionals with specific responsibility for environmental management to supervise operations on site during the whole construction period, and with the authority to stop work and implement remedial work with immediate effect”, and enquired whether the person would be appropriately sanctioned, on site, on a daily basis. Referring to Condition 7, Mr Nickerson stated that it was essential that the Environmental Clerk of Works has the control and authority to stop works on site, and that this should be emphasised. In referring to Condition 9, Mr Nickerson asked for assurance that the Local Authority would have no responsibility for meeting the cost of improvements to roads.

The Development Management Manager advised that a clause could be added to Condition 6(a) to ensure sampling and testing are carried out. Regarding Condition 6(l), the Development Management Manager advised that it would be the Planning Service’s expectation that the person appointed would be on site and be sanctioned on site. Regarding Condition 9, the Development Management Manager advised that it would be the Planning Service’s expectation that the cost of road improvements will be met by the developer, and that improvements to the roads for the Wind Farm development that would also be used will be met by Viking Energy, in consultation with the Roads Service.

In response to a question from Mr Nickerson, Dr Say advised that for major projects, SHETL would have a permanent Environmental Clerk of Works on site. She added that SHETL would be happy to monitor and sample the silt.

In response to a question from Mr Nickerson regarding responsibility for improvements to the roads relevant to this application, Dr Say said that the Environmental Statement includes reference whereby it is assumed that many of the roads will only be built if the Wind Farm went ahead, as road improvements will be made as part of the Wind Farm, and SHETL will use the improved roads, where possible. She added that if further works were required, this would be undertaken through the appropriate planning application process.

The Convener said that with the main difficulty for the Tingwall, Whiteness and Weisdale Community Council being the size and height of the buildings, he questioned whether it would be possible for the buildings to be more integrated into the landscape. Dr Say explained that reducing the impact of buildings would be looked at in any design, and in this case the site had been chosen where the buildings could be settled as low as possible into the landscape. She added that the height of the building had already been reduced from the proposed 22 metres to nearer 17 to 15 metres. Mr G Taylor, SHETL Project Manager, said that the design work is continuing, with the assessment being that the height of the buildings can be reduced to between 15 and 17 metres.

Mrs Fullerton suggested that two additional conditions should be applied to any approval of the application, firstly to make it quite clear that the Council would not be responsible for the costs of any remedial road works, and to put a condition that the buildings should not be above 17 metres. Mr Taylor said that from SHETL’s point of view, the vast majority of road improvements would be undertaken by Viking Energy, and these improvements should be suitable to SHETL, however if other improvements were required these would be paid for by SHETL. He added that SHETL would be comfortable to work towards a condition that the height of the buildings would not exceed 17 metres.



The Development Management Manager asked Members to bear in mind that the application at this time was for planning permission in principle, and that the detail of the development would be in a fuller application at the detailed permission stage. He added that the height of the buildings would be determined at that stage.

In response to a question from Ms L Baisley, Dr Say explained that locating the building partly underground had been considered, however on balance even if the buildings were 22 metres high, there is only one location along the road where the buildings would be seen.

Ms Baisley said that she was a supporter of renewable energy in the global context, and also sees this development as vital for Shetland's future. She cared for Shetland's environment, and respected the views of the people opposing the development. Ms Baisley said she did not have a problem with accepting and recognising that the planning permission was in principle at this stage, and the applicant was a long way to get all the details correct. She commented that Sustainable Shetland would be watching the application closely and she was glad that there were people who cared so passionately.

Ms Baisley said she recognised Viking Energy was not the only potential user of the development, but also recognised that the Converter Station could not go ahead without the Viking Energy Wind Farm. She commented that the landscape had already been changed by man, like other landscapes in Shetland, and there would be mitigation factors built into this application. Regarding the design, Ms Baisley said that although the development would be intrusive, she hoped that it could be made as attractive as possible. Ms L Baisley moved that the Council approve the application. Mr J Simpson seconded.

In response to a query from Mr Nickerson, Ms Baisley confirmed that her motion included the comments raised by Mr Nickerson, and this received the consent of her seconder.

The Council concluded at 11.05am.

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A J Cluness  
Convener