

MINUTE

A&B - Public

Planning Committee
Council Chamber, Town Hall, Lerwick
Monday 15 April 2019 at 2pm

Present:

M Bell	C Hughson
E Macdonald	A Manson
D Sandison	C Smith
G Smith	T Smith

Apologies:

D Simpson

In Attendance (Officers):

N Grant, Director of Development Services
I McDiarmid, Executive Manager – Planning
J Holden, Team Leader – Development Management
P Sutherland, Solicitor
L Adamson, Committee Officer

Chair

Mr T Smith, Chair of the Planning Committee, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

Mr T Smith declared an interest in Item 2 on the agenda, application ref. 2018/096/PPF, and advised that he would give further detail following the Committee's consideration of Item 1.

4/19 **Minutes**

The Committee confirmed the minutes of the meeting held on 13 February 2019 on the motion of Mr C Smith, seconded by Mrs Hughson.

The Chair advised that the following agenda items would take the form of Hearings. The order of events being that the Committee shall first receive a presentation from the Planning Service, that will be followed by any representations from formal objectors, then a presentation by the applicant in each case. He advised that objectors and the applicant will have a maximum of five minutes, and in the case of multiple objectors and applicants with the same grounds, to avoid repetition or similar statements which take up time.

5/19 **2018/186/PPF: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure, by Peel Wind Farms (No.1) Ltd**

The Committee considered a report by the Planning Officer – Development Management [Record Appendix1], to be considered as a Hearing.

The Chair sought confirmation on representation of the applicant in attendance. Mr Snowdon, Peel Energy, advised that he was representing the applicant.

The Chair then sought confirmation on objectors in attendance to address the meeting. Mr P Davis, Shetland Clay Target Club; Mr J Mackenzie, Sustainable Shetland; Mrs J Atkinson, Tingwall House; and, Mr A Nicol, Frakkafield, indicated their intention to address the Committee.

The Chair then referred to an invitation from the applicant during late 2018, that arrangements could be made for Members on the Planning Committee to attend a visit to the application site. The Chair said that at that time, he had advised the applicant that consideration on the need for a site visit would be raised at the formal meeting. In that regard, the Chair posed the question to Members as to whether a site visit was required. Following consideration, the Committee agreed that there was no requirement for a site visit in this instance.

The Team Leader – Development Management gave a presentation which illustrated the following:

- Site Plan
- Development of the wind farm site
- Visualisations submitted with the Environmental Impact Assessment Report:
 - looking across from Bressay towards Lerwick
 - from the Knab
 - across to Scalloway from Port Arthur
 - out the north road looking across to the peat cutting site
- Key Issues

The Team Leader then advised on the following: *“The proposed wind farm comprises a total of 12 wind turbines. The wind turbines proposed will have a maximum blade tip height of 145 metres. Two substations are proposed along with approximately 9.3 km of access track. During the design of the wind farm several different configurations were examined. The evolution of the design of the development is an important consideration as the design process is used to justify the “designing out” of some potential environmental, residential, landscape and visual impacts.*

The key issues are identified as Landscape and Visual Impacts, Impacts on Peatland and Impacts on Aviation. Other potential impacts are acknowledged such as those on birds, people (from noise and shadow flicker) and on drainage.

In terms of landscape and visual impacts, it is unlikely that the introduction of large scale wind turbines to the landscape will be seen as a positive addition, however different individuals will have different opinions on aesthetics and other considerations such as the role that a development may have in providing a clean energy source. The Landscape and Visual Impact Assessment (LVIA) is set out in Chapter 6 of the EIA Report and concludes that “whilst the proposed development would result in some significant landscape and visual effects these would be limited in extent and focused within an area that is already influenced by man-made infrastructure including existing wind turbines, overhead lines, roads, quarries and transmission masts.” It is acknowledged that the proposed development will have a significant impact on the landscape of Lerwick when viewed from much of the west side of Bressay and there is no question that the development will have a major adverse impact on the character of

the landscape of the 4 Landscape Character Areas most affected (i.e. over a considerable area of the central Mainland). However the question for the Planning Authority is whether the proposal is, on balance acceptable, taking account of the benefits and positive effects on the one hand and the disbenefits and negative effects, on the other.

In landscape terms it can be difficult to be entirely objective in terms of understanding landscape impact since, by their very nature, “appreciation”, “understanding” and “enjoyment” are at least in part, an emotional response. Balancing these (and other, more measurable aspects related to impact on landscape character) with anticipated benefits (such as those expected to result from reduced carbon output at a regional, national or global scale) is not straightforward and there are no formulas to assist. Scottish Natural Heritage does not object to the application and has confirmed that the development will not have significant adverse impact on the National Scenic Area. However they are of the opinion that the development has not considered the scale of the wind farm in relation to the character and capacity of the site particularly in relation to the height and number of turbines proposed.

On balance, although it is acknowledged that landscape effects will be significant and the background landscape of Lerwick will be altered and will become characterised by wind turbine development the main impacts are partly constrained by topography. The proposed development has been reduced from its origins when up to 21 wind turbines were being considered (at the Scoping Stage) and the development design is a response to a number of other considerations/constraints on site including landscape and visual impact. Visual impact on residential amenity, although significant in some instances, has not been found to be so overbearing or detrimental as to warrant refusal of the application. In this respect it is considered that the proposed development will not compromise the future enjoyment of a high quality environment, and will not have a visually significantly adverse effect on existing users of the area.

SNH objected to the proposed development because of the presence of high quality peatland in the area proposed for wind turbine 1 but are content that the Council judges whether the proposal is contrary to Scottish Planning Policy (SPP) in this respect. It is acknowledged that the majority of the site is classed as blanket bog, but the EIA Report and supporting information submitted concluded that all the blanket bog was considered to be modified by drainage, peat cutting and sheep grazing and that there was a range of quality of blanket bog across the site. The proposed layout of the wind farm has attempted to avoid areas of deep peat, but it would not be possible to accommodate all the necessary infrastructure without disturbing some peat. A peat slide risk assessment has been prepared that indicates that the risk of peat slide is not high. An outline Peat Management Plan, and Habitat Management Plan have also been prepared which set out the mitigation proposed to reduce impacts on peatland and improve the peatland habitat. Wind turbine 1 can be micro-sited to avoid the deepest peat and move the turbine further away from the pool system near this turbine. Given that SPP does not state that there should be no development on areas of deep peat or carbon rich soils, and that proposals for development in such areas must demonstrate how impacts can be minimised, taking account of the peat management measures, habitat management plan and other mitigations proposed, it is considered that the proposed development is generally in compliance with SPP.

The operators of Scatsta Airport, and the MOD for RRH (Remote Radar Head) Saxa Vord objected to the development. Scatsta were concerned that the proposed

development conflicted with the airport's safeguarding criteria regarding the radar and potentially, Instrument Flight Procedures. The applicant submitted further information in connection with impacts on Scatsta and following further discussions it is proposed to attach a planning condition requiring that a radar mitigation scheme for Scatsta Airport be submitted for approval before any work begins on the wind farm. Scatsta has since confirmed that a suitable suspensive planning condition would satisfy concerns about impacts on Scatsta Airport.

The MOD has objected to the development indicating that the proposal would have a significant and detrimental effect on Air Defence operations as the wind turbines will cause interference to the radar at Saxa Vord. Again it is proposed that a suspensive planning condition be attached to any permission that requires an agreement to be reached between the developer and the MOD on the provision of appropriate mitigation. This would mean that the development could not begin until an agreement is reached. It is considered that this will ensure that the concerns of the MOD are addressed.

It is acknowledged in the EIA Report that the wind farm would have an impact on flights from Tingwall to Fair Isle during easterly winds, however it was established that there are a number of viable alternative routes available for this flight, and the operators of Tingwall Airport have raised no objections to the proposal. The wind turbines will require to be lit and a planning condition is proposed that requires a lighting plan to be submitted. This would be subject to consultation with all interested aviation bodies.

There are no designated sites within the application site but the site is close to the proposed East Coast Mainland proposed Special Protection Area (pSPA). This is a sea based area stretching from Samphrey and Lunna Ness in the north, encompassing the sea to the north, east and south of Whalsay, and southwards to the north coast of Bressay. The site as designated regularly supports a non-breeding population of great northern divers and Slavonian grebes. The pSPA also supports (as a foraging area) a breeding population of red-throated divers as well as populations of common eider, long tailed duck and red-breasted merganser. An Appropriate Assessment as required by the Habitats Directive and Regulations has been carried out based on the information available and following advice from SNH, and has concluded that the development will not give rise to a significant adverse effect on the qualifying interests of the pSPA nor will it affect the integrity of the site as a whole. Anticipated impacts are reduced to be of no significance and the mitigation proposed in the formats of a Construction Environmental Management Plan (CEMP), Outline Habitat Management Plan (OHMP) and Draft Bird Breeding Protection Plan (BBPP) will contribute to ensuring that impacts are minimised.

A total of 48 bird species was recorded within the site and the EIA Report concluded that although there will be impacts on some of the species due to potential collision impacts, none of the effects are considered to be significant as there will be no overall effect on the regional population levels of these species and therefore the Shetland Natural Heritage Zone populations will not be adversely affected. It is considered that with the mitigation proposed that will be secured by planning condition, it has been demonstrated that the impact on bird species within the site and within the vicinity of the site has been reduced to acceptable levels.

Any decision for a wind farm development is a balance between potential benefits and anticipated adverse impacts. The most relevant benefits that the proposed wind farm provides is net economic benefit, the scale of contribution to renewable energy

generation targets, and the effects of the development on greenhouse gas emissions. Use of the Scottish Government's Carbon Calculator tool to assess the carbon balance of this proposed wind farm indicates that the development would lead to a reduction in greenhouse gas emissions of between 57,862t CO₂e and 118,507t CO₂e over a likely 25 year operational lifetime. The predicted emissions payback time is calculated at between 0.8 and 2.3 years. This being the case the proposed development would result in a positive significant effect on climate change and carbon balance throughout the lifetime of the development, and make a significant contribution to meeting greenhouse gas emission and renewable energy targets.

The EIA Report estimates that between 40 and 80 net additional full time equivalent (FTE) jobs would be created during the construction, operation and decommissioning phases of the development. This consists of 14-28 FTE direct jobs and a further 26-52 indirect and induced jobs in the wider economy. This level of job creation is noted as a potential significant benefit of the proposed development for the Shetland economy.

The Council's Economic Development Service has pointed out that the proposed development is in line with the Council's Economic Development Strategy 2018-2022. They also pointed out that additional consented energy generation in Shetland would add support to the needs case for the High Voltage DC link between Shetland and the Scottish Mainland. It is clear that within SPP, as set out at paragraphs 7.2 to 7.15 of the Report of Handling, there is much support for renewable energy developments. Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development. The Shetland Local Development Plan (SLDP) (2014) is supportive of sustainable economic developments and tackling climate change is a major consideration for all development proposals.

It is concluded that the proposed development would make a significant contribution to meeting greenhouse gas emission and renewable energy targets, would provide job opportunities and contribute to the local economy, and that environmental effects can be mitigated by planning conditions. Impacts would, it is considered, be outweighed by the benefits of renewable energy generation. It is therefore recommended that the Planning Committee grants approval of the application, subject to the conditions set down in Appendix A to the report."

The Chair thanked the Team Leader, and invited questions from Members.

Mr Bell referred to the number of suspensive planning conditions relating to this application that have to be agreed in advance with the Planning Authority. He enquired on what happens should agreement between the applicant and Planning Service not be reached, but the applicant considers a particular proposal to be entirely reasonable. The Team Leader advised the Committee on the two types of suspensive conditions being recommended, with the first being that no development can take place until agreement has been reached. In that instance, should a submission be made by the applicant, and the Planning Authority under its delegated powers determine refusal, there is the appeal route available to the applicant. The second suspensive conditions are where agreement has to be reached, for example, with the Ministry of Defence, and notified to the Planning Authority. He reported that it is feasible that no acceptable solution can be found and therefore the development may not be able to come to fruition, which is a risk for the applicant to consider. In response to a request from the Chair for further clarity on the appeal route available to the applicant, the Team Leader advised that an appeal would be subject to two

months determination, and should the decision not be to the applicant's liking the application would be presented to the Local Review Body.

Reference was made to the statement in section 2.8 of the report, namely, "A suite of planning conditions which are capable to resolving or mitigating many of the concerns raised have been recommended to be attached to any planning permission granted...", where clarity was sought whether mitigation addressed concerns raised that were material in planning terms. The Team Leader advised that a number of issues raised by those making representation were a matter of opinion, e.g. landscape and visual impacts, which have been acknowledged in the report, and that the Planning Service have had to make a judgement. In terms of concerns raised that are material in planning terms, the Team Leader advised that these have been addressed and would be satisfied should the conditions be met.

In referring to section 4.12 of the report, Mr G Smith noted that while Tingwall Airport had not objected to the proposed wind farm, there is reference to the requirement for a steeper descent on flights from Fair Isle. In that regard, he enquired whether the Pilots were content with the requirement for such a steeper descent. The Team Leader advised that dialogue has been with the airport operators and the technical advisers of the airport, who are content for the aircrafts to take a more northerly approach.

Mr G Smith referred to the sizeable conditions attached, where he commented that many are quite significant. In that regard, he sought clarity on how the conditions would be enforced should the application be approved, and on the penalty for non-adherence to the conditions. The Team Leader advised on the expectation on the developer to comply with the conditions, and on the legal obligations placed on the applicant. He advised however that should there be an issue of non-compliance, that could require action through the Planning Service Enforcement Officer gathering evidence and then using powers available under the Planning Act to serve notices to require remedial action and prevent further harm if a breach was to occur.

Mr Sandison referred also to the significant amount of planning conditions, with many being quite onerous, which he said was rightly so, and he enquired on the adequacy of resources and expertise in place capable to properly enforce the conditions. The Executive Manager – Planning commented that within the Planning Service, workloads are very much dependant on other people's timescales. He advised however that should this application be approved, there is the potential for officers to be working with some other large developments, so it could be difficult to plan ahead to maintain a watching brief over this type of development. He advised that for this application, a Monitoring Officer would be provided by the developer to work closely with the Planning Service. The Executive Manager – Planning acknowledged that resources was a difficult area to juggle a number of different developments that are to happen at the same time, but it is the nature of working within the Planning Service. He advised that there is however specialist knowledge within the small team to deal with large and small applications, and he also confirmed the significant level of knowledge on the larger developments.

In referring Members to Section 2.5 of the report, Mr G Smith said that the following statement from the first sentence was the crux of the matter, "that proposals for renewable energy developments will be supported where it can be demonstrated that there are no unacceptable impacts on people, the natural and water environment, historic environment, landscape, historic environment" and in that regard to consider whether the development on the site would be acceptable. In acknowledging

the sizeable report, Mr G Smith questioned the process to decide on what is acceptable and unacceptable, commenting that some of the findings could be quite subjective. The Team Leader acknowledged that there is an amount of subjectivity and opinion as the Planning Service have to provide an opinion to the Planning Committee, to consider the conclusion. He advised that presumption is in favour of development where Planning Policy is followed to come to a view whether a proposal is acceptable and does not cause harm, through a process of refinement of the proposal. Once satisfied, the Planning Service can frame conditions for further refinement to recommend approval of an application.

In referring to the Shadow Flicker Assessment, Mr Sandison advised that while he was content with the shadow flicker condition attached to effectively deal with any impact of shadow flicker on properties, he questioned the analysis and whether there was sufficient flexibility in the condition should the assessment not be completely accurate on timescales in terms of potential shadow flicker. The Team Leader advised that the developer must satisfy the Planning Service following a theoretical assessment on the positions of the turbines proposed, taking into account the proposals for micro-siting. In responding to a question, the Team Leader explained that all the turbines are programmable and can be controlled, where at certain times of the year, and on days where it is not cloudy and there is potential for sunshine, individual turbines can be shutdown. In response to a question regarding reassessment of shadow flicker at a particular property once the turbines have been built should issues arise, the Team Leader questioned such a requirement, advising that the shadow flicker control scheme approved at the outset would have identified the times when certain turbines would not be operational. He added however that there would be scope to revisit any shadow flicker problems through Environment Health Service who investigate complaints of statutory nuisance.

In responding to a question from Mrs Hughson, the Team Leader said that any impacts and disturbance from the wind turbines on telecommunications would have formed part of the scoping exercise for the Environmental Impact Assessment. The Team Leader advised however that the applicant would be addressing the meeting, and would be able to respond more fully to the question.

There were no further questions to the Team Leader.

The Chair invited the representative from the Shetland Clay Target Club to address the meeting.

Mr P Davies said that having listened to the discussion, and the various matters raised on the application, he advised that from the Club's perspective, rather than it being a planning issue, there was a need for further discussion to take place between the developer and the landowner. In response to questions from Members, Mr Davies advised that the Club's concern was that the proposed access road would infringe on the safety zone, which he said has to be in place for legal reasons. The Club also had concerns with the location of two of the proposed turbines. He said that one of the turbines would be directly in front of the shooting range, and while outside the 300m safety limit, would still be an issue. He added that the facility was built for the 2005 Island Games, and the facility would be taken away should the turbines be built as proposed. In response to a question from the Chair, Mr Davies confirmed that while he had not been personally involved, discussion has taken place between representatives of the Club, the developer and the landowner, however no conclusion has been reached.

There were no further questions to Mr Davies.

The Chair invited the representative of Sustainable Shetland to address the meeting.

Mr J Mackenzie, Vice-Chair of Sustainable Shetland, read from a prepared paper, which covered the following points:

- *Reference only made in the Planning Officer's report to Committee to Supplementary Guidance on Onshore Wind Energy in respect to peatland, while the impact on people is ignored.*
- *The report states, "Visual impact on residential amenity, although significant in some instances, has not been found to be overbearing or detrimental as to warrant refusal of the application" Found by whom – what criteria was used to define "residential amenity"?*
- *The Supplementary Guidance states: "Developers of very large, large and medium scale proposals will be required to show that their proposal conforms to the guidance provided in the Landscape Sensitivity and Capacity Study (LSCS) for Wind Farm Development on the Shetland Islands (Land Use Consultants for SIC, 2009) for each affected visual compartment. Proposals shall take account of the described landscape sensitivities of each landscape character area, site specific landscape and visual assessment and other guidance produced by statutory bodies".*
- *A visual compartment (N-Central Mainland East, which includes Dales Voe) according to the LSCS, can support one medium sized wind farm or several smaller ones.*
- *The proposed windfarm clearly exceeds the size recommended by the LSCS. Therefore the Planning Department, by recommending approval, is contradicting its own guidance; to grant approval would contravene adopted policy regarding onshore wind energy.*
- *The Supplementary Guidance also states, "proposed development in this area needs to be carefully assessed in terms of potential cumulative effects with development in adjacent visual compartments, by examining the effects upon the North Mainland as a whole". This does not appear to have been adequately addressed in the report.*
- *MOD maintained objection, stating that the suspensive planning condition proposed was inadequate – minimising effect of turbine on radar is not sufficient mitigation – and offered to advise on suitable content of condition. This seems to have been ignored by Planning, as the suspensive condition remains. Surely this constitutes a major omission, and it does not give me faith in the Department's competence.*
- *SNH considered that the condition of peatland in the vicinity of Turbine 1 is of high quality, and nationally important and wished it to remain undisturbed. The planning report disagrees with this. Given that only now is a proper survey being undertaken of blanket bog in Shetland, I doubt very much whether the planning department has sufficient knowledge to determine this. I understand that the area of Tagdale in which Turbine 1 is proposed to be located has areas of recovering and carbon sequestering blanket bog. It would be nothing short of nonsensical to destroy this, which will have taken years to recover.*
- *Besides, it has been estimated that under the SNH peat restoration programme it costs £2,500 to restore one hectare of degraded peatland. What is the sense of further degradation caused by windfarm construction. Indeed it seems crazy for the government on the one hand to be granting funds for restoration, while at the same time allowing its degradation or destruction of windfarms".*

There were no questions from Members to Mr Mackenzie.

Mrs J Atkinson, Tingwall House, Tingwall, an objector to the application, read from a prepared paper, as follows:

“When this application was submitted last summer we concluded that whilst we were unhappy about the submission of the application in general terms, it appears from the visual impact assessment that the impact on our house in Tingwall would be minimal, however, this was difficult to ascertain as the nearest assessment had been undertaken at a lower level to our house.

In December last year the temporary mast associated with this development was erected at Hill of Dale and gives a clear point of reference as to what will be viewed from our house. It would appear that the mast is located either on the site of, or in the region of Turbine No.4. The mast that has been erected is only 80 metres high, yet the turbines will be 145 metres high. It is clear even at this height how dominating the turbines will be.

We are able to view a considerable portion of the mast from the south and east facing windows of our house. It is clear that we will see a significant portion of the turbine tower in addition to the blades of Turbine 4. It is not possible for us to ascertain how much of Turbine 6 we shall see.

If this application is approved we will be surrounded by wind turbines: there are three small turbines to the west of us at the farm, the five Burradale wind turbines to the south and southwest of us and now as a result of this application, potentially two large turbines to the east and a further three to the north east.

We have lived in close proximity to the five Burradale wind turbines for over 20 years. We have never found this easy. They are located to the south of our house and in the winter months we experience severe and very disturbing shadow flicker as the sun rises. We are concerned that this will be exacerbated by the current application. Although we are outwith the distance used to measure shadow flicker, this is proved to be a total inadequate measurement given the severe shadow flicker we experience from the turbines at Burradale.

In addition it is also very difficult living with constant moving structures within our peripheral vision, whether inside, or outside the house. If the application is approved we will have no view from any south or east facing windows of our house without viewing turbines. That is, our main habitable rooms and bedrooms. One doesn't have to be looking out of the window to be affected. The turning blades are reflected in mirrors and any glass objects such as pictures, photographs and even shiny ornaments. Consequently there is always something moving no matter where one is.

We therefore strongly object to this application on the grounds of the visual and disturbing impact these additional large turbines will have on our life.

We also believe that this application cannot be considered independently of the existing wind turbines at Burradale. The cumulative impact of both wind farms on the surrounding area and residents has to be considered and consequently we believe that the close proximity of the two farms is overprovision in this area and an unacceptable burden on those who have to live within their visual boundaries”.

Members were then invited to put any questions to Mrs Atkinson.

In responding to questions, Mrs Atkinson advised from her understanding that the assessment of properties for shadow flicker was within a certain distance from windfarms based on the blade length of the turbines. She said that for the Burradale windfarm their property had been outwith the shadow flicker assessment distance however they experience shadow flicker from the Burradale Wind turbines. That being the case, Mrs Atkinson questioned whether the assessment criteria used was adequate to address their concerns of shadow flicker from the proposed wind turbines. In responding to a further question, Mrs Atkinson advised that their concern was with Turbine 4, and potentially with Turbine No. 6.

The Chair thanked Mrs Atkinson. He then invited Mr Nicol, an objector, to address the meeting.

Mr Nicol advised that he was representing 100% of the residents of Frakkafeld and Tagdale, who live closest to the proposed wind farm and object to granting planning consent for this proposal, as the turbines are too close to their houses. He said that the residents are not aware of a visual impairment assessment with an illustration of what the windfarm would look like from Frakkafeld. Mr Nicol referred to the Minimum Distance Bill and the debate in the House of Lords where the windmills, if passed, would require to be more than 2km away from the houses, and if they were 6 metres higher, would require to be 3km away from houses. He referred to the science and experience from people who suffered intrusion, who had to leave their property as they suffered health issues being in close proximity. Mr Nicol advised that while the minimum distance is 2km, there are 5 of the turbines proposed would be at a distance of less than 1km from his property.

Mr Nicol advised on the accident blackspots at the Frakkafeld junction and Brig o' Fitch junction, and that he was personally aware of two accidents as a result of the Burradale Windfarm being a distraction to drivers. He said that windmills next to the Brig o' Fitch junction would be another distraction.

Mr Nicol advised on a requirement to site windmills where there is wind, and there are 4 of these windmills proposed in the valley where they would be sheltered, with the only operational time when there is a direct functioning wind when the noise will be directly aimed at the houses, and according to providers that would be when they would be switched off so as not to disturb residents. He added ironically when speaking with developers earlier they had no expectation of being allowed to build there. Mr Nicol referred to the Council's Planning Document DC5 Water Resources, that there is no way such a large development could be built without adversely affecting the quality of the water which is used by migratory salmon and sea trout as well as the permanent inhabitants. Regarding Shetland Tourism, Mr Nicol said that Shetland has seen in recent years an exponential growth in tourism, and Shetland is proud of its geopark status which will be lost if this type of development is pursued and will adversely affect the thriving industry. Mr Nicol added that the first thing that visiting cruise passengers will see is turbines, which will destroy the natural visualisation. In concluding, Mr Nicol confirmed that the residents were entirely against the proposed development and he hoped that Members would take these concerns onboard.

The Chair thanked Mr Nicol for his contribution. There were no questions to Mr Nicol.

The Chair invited the representative of the applicant to address the meeting.

Mr S Snowdon, Peel Energy, stated that he endorsed the Planning Officer's report, while he acknowledged the resources difficulties that the planning department has been experiencing. In referring to the objections heard at the meeting, Mr Snowdon reported that it is difficult to design a windfarm, but there is a lot of science, consultation and assessment before a planning application is submitted. There are a great many documents, including the Environmental Impact Assessment Report that accompanies the application, expertise to develop the proposals, and a lot of discussion on the planning conditions. Regarding shadow flicker, he advised that in the first instance a method is employed on how many properties may potentially be affected. The system used is reactive to actual conditions, where a turbine will stop when conditions will affect a property. There will be a general planning condition on shadow flicker and there is a complaints procedure that can be followed. He said that shadow flicker and all aspects of construction, operation of the development and decommissioning will be covered.

Mr Snowdon referred to the visualisations that accompanied the application, which he said are a fundamental part of the assessment. The further detail at Section 6.7 of the Environmental Impact Assessment Report looks more closely at potential living conditions. He said that people who carry out assessments have to come to an independent conclusion, and if there is an impact, how severe.

In terms of the concern raised regarding communication links, Mr Snowdon said that any issues, or new links, would be identified during the scoping, and can be taken forward through the general complaints procedure.

Mr Snowdon referred to the comments made by Members on the number of conditions proposed, and the ability of the Planning Department to closely monitor these conditions. In that regard, he confirmed that there will be an independent Monitoring officer and Clerks of Works in addition to the Council's regulatory function. Mr Snowdon commented also on the difficulty to get funding should regulations and rules to comply with be ignored, or should there be any disregard to recommendations or any conditions that have been put forward. Mr Snowdon added there has been no breach of conditions at any their three other windfarm developments.

Mr Snowdon referred to the comments made by the objector on the shadow flicker from the Burradale windfarm, and said that personally he was not aware of the shadow flicker condition as part of that approval. He advised however on the methodology for shadow flicker assessment, being 10 rotor diameters, and said the turbines are capable to be programmed for shadow flicker shutdowns, and he confirmed that process would be built in when developing the model for the Mossy Hill scheme.

The Chair invited questions to Mr Snowdon.

Mr Bell referred to the concerns raised by the Shetland Clay Target Club regarding the access road and that one turbine would be overlooking their safety area. Mr Snowdon advised that this meeting was not the appropriate arena for the discussion, being a legal and property aspect, rather than a planning issue. He was however aware that discussion has been ongoing regarding the shot drop area, and with working practises and methodology the risk would be minimised as far as possible. He said that the applicant would continue to work closely with the Club in that regard, and referred to the good dialogue with the Club, which he said would expect to be the case going forward. The Chair commented that the Clay Target Club have raised a bonafide objection, and having heard from the representative of the Club and the representative of the applicant it would appear that while there will be further discussion, no reassurance has been

given to Members of the Planning Committee that a resolution can be achieved. Mr Bell however suggested, that should the Committee be minded to approve the application, an additional condition could be formed, which would cover the concerns raised.

In referring to Section 4.25 of the covering report, where it stated that the applicant was committed to sourcing as much local labour as possible, Ms Macdonald enquired on any discussions that have taken place with individuals with the correct skills to do the work required. Mr Snowdon advised on attendance at a supply event in June. He also advised that Peel Energy normally operate a "local employment and procurement scheme", and he said that while that is not a planning consideration, Peel Energy look to source skills and labour in the local authority area whenever that is practical to do so.

Mr Sandison referred to the proposal to have turbines within 1km, and less than 2 km from houses. In that regard, he questioned the justification and commented that Policy was being ignored. Mr Snowdon said that he was not aware of a hard and fast Policy, and their layout had undergone detailed noise surveys, and the usual key predictors for visual impact and shadow flicker. He advised that their initial proposal for 21 turbines had been reduced. In response to a further question, Mr Snowdon explained that their proposal has been informed by their studies, whereby in instances where the turbines are within 1 km of a property, there will be no unacceptable adverse impact. Mr Sandison referred to the visualisations and the maps, and the concern raised by one objector regarding the number of turbines close to the junction which could potentially cause a distraction to drivers. Mr Sandison enquired on the assessment that has taken place in terms of distraction to road users. Mr Snowdon advised that road safety formed part of the Environmental Assessment, and extensive dialogue had taken place with the Council's Highways Engineer. There is also a planning condition that a Traffic Management Plan has to be submitted and agreed by the Council, and to be continually reviewed by the Monitoring Officer. Mr Snowdon said however that driver distraction is not typically an issue, and he referred to studies where a rotating turbine is not a distraction. He said however that while the potential for distraction always exists, it is down to each individual driver to drive safely.

In responding to a question from Mr G Smith as to whether there were any visual illustrations from Frakkafield or the Dale golf course, Mr Snowdon advised there was a visual illustration from Frakkafield, but it was not from the objector's property. Mr G Smith commented that he had seen that particular visual illustration, and said that it was striking to get a feel of how near the turbine would be, and in terms of its size. Mr G Smith suggested that visual illustrations of the turbines that would be closest to properties may have benefitted Members on the Planning Committee, rather than views from, for example, Hamnavoe. Mr Snowdon advised that the submissions were representative views rather than photomontages. The Chair advised on his concern that the submissions had not included photomontages from the nearest properties at Frakkafield, and at the top of Shurton Brae, where 9-10 houses would be quite near to the turbines. Mr Snowdon said that there are no photomontages from the houses in Shurton Brae, but advised that there were wire-frame diagrams at Figures 3e, 3f and 3g of the submissions. Mr Snowdon added that the proximity of a turbine is not a guarantee indicator of a problem.

In responding to questions from Mr G Smith, Mr Snowdon advised that the turbines would be able to operate more than 98% of the time, and their expectation for shadow flicker would typically result in a 2-2.2% loss in generation. In the instances the strength of the wind is too strong, the turbines can be turned out of the wind so they no longer generate. He said that in a good environment the turbines will be available to

generate all the time. Mr Snowdon added that Peel Energy would not have considered this particular site, if there was not confidence the wind farm would work within the conditions proposed.

Mr C Smith advised that he represents the Lerwick South ward, but that he was representing all Shetland residents when discussing these type of applications. Mr C Smith enquired how many hours per day was expected for shadow flicker in the summer months, advising that he was raising concerns from a constituent in the Lerwick South ward whose property had initially been included on the map, but the property was then removed. Mr Snowdon said that while he did not have the information to hand on that individual property but said that he could get the answer. He advised that the property would be referred to in the shadow flicker assessment report, which had informed the EIA.

Ms Manson asked Mr Snowdon what Peel Energy would consider to be a reasonable minimum distance between a property and a turbine for this windfarm, given that the houses were in a valley, and that sound travels in a valley. Mr Snowdon advised that there was the separation distance, the noise assessment and environmental variables that self regulates where a turbine can be located. Mr Snowdon added that he was aware of turbines located less than 0.5km from a property where there have been no problems. In response to a further question from Ms Manson as to whether an environmental survey had been undertaken at the closest property, Mr Snowdon advised on the dialogue with the Environmental Health Service in terms of the parameters of the noise survey, which he advised has been reflected in the condition.

The Chair said that he represents the Ward of Shetland West, and had been advised of concerns from the West Burrafirth Broadband Group in terms of interference of broadband links from Shurton Brae. The Chair said that the Group advised that Peel Energy have been aware of their concerns for some time. Mr Snowdon advised that Peel Energy do not believe there will be a problem with broadband coverage, and this formed part of the scoping survey and design of the windfarm. He advised however on the planning condition that would cover television and radio signal strength which will capture broadband. He went on to say that in the event planning permission is granted, officers will monitor performance, and any unacceptable impact would be rectified by the applicant, at their expense. Mr Snowdon added that Peel Energy are committed to ensure there are no problems, but confirmed that any problems would be rectified at their expense.

In referring to the applicant's decision to reduce the number of turbines on the site from 21 to 12, the Chair enquired on the reason that the overall size of the site had not reduced. Mr Snowdon advised that while a number of the turbines had been removed due to environmental factors, the application is still clear on the number of turbines proposed, and that it is easier to proceed within the initial area as illustrated in red on the map. He advised on the ability to use some of the land, while not for its intended purpose, for habitat and peat improvement work.

Mr G Smith sought clarity from Mr Snowdon as to whether the application as submitted, with the concerns raised in terms of the proximity of wind turbines, was Peel Energy's final submission. Mr Snowdon confirmed that was the case.

There were no further questions to Mr Snowdon. The Chair thanked Mr Snowdon for the information provided.

During debate, the Chair advised that he continued to have concerns on impacts of shadow flicker or the potential for shadow flicker from the turbines. He said that his concern was for the people who would be living nearby to a windfarm, and for the development proposed there would be quite a number of people who would reside nearby. He referred in particular to Frakkafield and also at Mrs Atkinson's property, at Tingwall House, which the Committee had been informed was already subjected to shadow flicker from another wind farm in the area. The Chair said that he also had significant concerns at how close some of the proposed windfarm would be to houses at the top of Gulberwick, at Shurton Brae. In that regard, he advised from the visual assessment that the area for assessment had included 9 houses and the red line had also passed through the middle of a further property, which he said should be included. The Chair stressed the need to pay particular attention to the condition put on for shadow flicker, where he said that at the moment it was a general condition, and in that regard, he proposed that the shadow flicker condition be strengthened to name the houses at Frakkafield, the 10 houses at the top of Shurton Brae, and Tingwall House.

Mr C Smith advised that he supported the Chair's comments. He then referred to the concerns of the property owner at North Shurton, that the red line had crossed through their property, but that their property had been removed from the other 9 properties in terms of the shadow flicker assessment. He advised however that Peel Energy has since agreed that this tenth property will be included. Mr C Smith advised on the need to control shadow flicker as it can impact on the health of affected residents. Mr C Smith added that he would like to see the turbines that would impact on the properties at Shurton Brae to be moved north to remove shadow flicker.

Mrs Hughson advised on her concern at the proximity of the proposed turbines to dwellings, and in that regard she questioned whether there was a minimum distance set down, and on how the Committee could limit proximity for the turbines to be moved further away from the dwellings. In referring to the concerns raised by the Clay Target Club, Mrs Hughson advised on the huge inroads made to develop the facility and to compete at a national level, where she said that the loss of that asset, and the investment in young people to compete at a national level, would be a loss to the Shetland community. Mr Bell made comment that it was clear that a development of this nature would not please everybody, and it was a matter to find a balance. In terms of the concerns raised by the Clay Target Club, Mr Bell proposed that a further condition could be added to approval of the application, to ensure the Club's concerns were resolved before the development goes ahead.

Mr G Smith advised on his unease with the application, and said that what he had heard during the discussion he had received little assurance from the developer on the questions he had raised, and he also questioned whether the applicant was taking the matter seriously. He also advised on his concerns at the lack of engagement with those people that would be most directly affected, and said that while he accepted the desire of the applicant to mitigate shadow flickering as much as possible, it does not remove the impact. Mr G Smith also referred to the disruption and the impact on the quality of life to the people living near to the wind farm. Mr G Smith added that he awaited further conditions coming forward from Members.

In referring to the response from the applicant that there are to be no variations to the application as presented, Ms Manson advised on her concern at the distance of only 800 meters between a turbine and the nearest property, where there will be noise from all directions. Mrs Manson made comment on the lack of consultation with that householder. She also noted that there are other properties where the distance would

be barely 1km from a turbine. Mrs Manson added that the developer should look to develop the windfarm somewhere else, that would not destroy peoples' lives.

Mr T Smith moved that the Committee approve the application, subject to the recommended planning conditions, but with the shadow flicker condition to be strengthened to name the houses at Frakkafield, the 10 houses at the top of Shurton Brae, and Tingwall House; and with an additional condition that the Shetland Clay Target Club's concerns are resolved before the development goes ahead. Mr C Smith seconded.

Ms Manson moved as an amendment, that the application be refused, owing to the close proximity of houses to the proposed turbines, and the close proximity to watercourses and to Sandyloch, and on shadow flicker. Mr G Smith seconded.

Following summing up, voting took place by a show of hands, and the result was as follows:

Amendment (Ms Manson) 2
Motion (Mr T Smith) 6

In referring to the decision of Committee, the Chair advised that the modified condition and the new condition would be worded in consultation with the Planning Officials.

Decision

The Committee RESOLVED to grant approval of the planning application subject to the recommended planning conditions, but with the shadow flicker condition to be strengthened to name the houses at Frakkafield, the 10 houses at the top of Shurton Brae, and Tingwall House; and with an additional condition that the Shetland Clay Target Club's concerns are resolved before the development goes ahead.

Mr T Smith declared an interest in the following item, where he made reference to his ongoing objection to the Viking Energy Wind Farm, and said that in sitting as Chair he could not give an unbiased view on the application. Mr T Smith advised that he would now leave the Chamber, and pass the meeting to the Vice-Chair, Ms Manson, to take the next item.

(Mr T Smith left the meeting).

(There was a 10 minute adjournment).

(Ms Manson took the Chair).

6/19 **2018/096/PPF - Provision of a 2.09 km access track and associated works, new junction and temporary construction compound - Unclassified road to Upper Kergord runs approximately 1.5km, from a junction with the B9075, approximately 70m east of B9075 of Weisdale crossing, by Mr Jamie Watt, Viking Energy Wind Farm LLP.**

The Committee considered a report by the Planning Officer – Development Management [Record Appendix 2], to be considered as a Hearing.

In his presentation to Committee, the Team Leader – Development Management advised that in terms of this application the following key issues required to be considered:

- The acceptability of the principle of the development.
- Impact on existing uses and users.
- Impact on Natural Heritage and Biodiversity.
- Flood Risk and Surface Water.
- Impact on Built Heritage.
- Impact on Roads and Access.

The Team Leader advised on the following, *“The principle of an access track requirement to serve the convertor station and other buildings at Upper Kergord was established with the approval of the Viking Wind Farm by the Scottish Ministers (2009/191/ECU) in 2012 and the granting by the Council in 2011 of planning permission in principle for the convertor station (2009/224/PCO). The proposal to create the access track is one which is related to the commercial operation of the proposed Viking Wind Farm and will allow direct access to the approved and related convertor station site at Upper Kergord. The proposal has been supported by the submission of an Environmental Appraisal Report prepared in June 2016 and also submitted under the previous submission, which covers an appraisal of areas of environmental significant impact and provides an assessment of the main issues. It has assessed the likely significance of the effects of the development, and has concluded that with suitable effective mitigation measures the residual effects can be regarded as being minor and therefore not significant.*

Scottish Planning Policy (2014) supports sustainable economic growth and has a presumption in favour of development that contributes to sustainable development, aiming to achieve the right development in the right place, supporting the transformational change to a low carbon economy, but not development at any cost.

Shetland Local Development Plan (2014) seeks to ensure that development will not have a significant adverse effect on existing uses in the vicinity of the site nor have an adverse impact on the environment.

Representations have been received from Sustainable Shetland and local residents (Mr and Mrs Morrison) (as outlined within the Planning Report and attached as Appendix 4).

Tingwall, Whiteness and Weisdale Community Council have indicated that they wish to support the letter of representation sent in by Mr and Mrs Morrison on 16 September 2018 regarding this application, but not Point 3 regarding access.

The application process has seen consultation with various bodies including SEPA, SNH and RSPB. As a result of the consultations and representations various issues relating to the management of the impact of the development on the environment have been raised.

In terms of the impact on natural heritage, the environment and peat management, consultation responses have been received from two statutory consultees, Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA), as well as from the Royal Society for the Protection of Birds (RSPB). The Council’s own Natural Heritage Officer has also made comments.

Following initial objections by SEPA further information was submitted by the applicant. The further information submitted has been reviewed by SEPA and they have confirmed that as a result of the revisions made by the applicant they are in a position to remove their previous objections in relation to peat management and ground water dependant terrestrial ecosystems if planning conditions it requests in their response are attached to any future consent. The planning conditions requested are being recommended to the Committee.

The RSPB have commented that whilst they do not object to the application, they consider that additional information is required in order to fully assess the potential impacts of this application. Their comments relate to a Bird Protection Plan, Peat Management Plan and Habitat Management Plan. Conditions relating to the submission of these reports are also being recommended.

SNH have raised no objections but have commented that breeding bird and otter surveys are required before it can be ascertained whether the proposal will result in offences under wildlife law. The securing of these surveys by means of a planning condition will allow no conflict with policy.

SEPA have also advised that they have no objection to the proposed development on flood risk grounds, provided that details are provided of the flow capacity of the crossings, with accompanying annotated drawings with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere. A planning condition to be attached to a consent requiring the submission of these details is also being recommended.

The Council's Drainage and Flooding Officer commented that the suggested drainage approach has been accepted in principle. As a design and build project the detailed drainage design cannot be confirmed at this time, and on-going discussions regarding the specific drainage proposals will need to take place with SEPA and the Council.

The final design for a sustainable drainage system (SuDS) can be secured via a pre-commencement planning condition attached to a consent, thereby avoiding abortive work or the provision of inaccurate information at this stage. A suitable Construction Environmental Management Plan and a Water Quality Monitoring Programme has been proposed by the applicant, and this too can be required and delivered by attaching a planning condition to a consent. This will ensure the protection of the water environment and therefore compliance with SLDP Policy WD3.

The Shetland Regional Archaeologist (SRA) commented that the Environmental Appraisal Report has identified a number of "heritage assets" within 1km of the proposed development. An appropriately worded condition to ensure protection of these assets can be applied.

The Council's Roads Traffic Service were consulted on the proposal and have raised no objections. A road condition survey on the haulage routes proposed is recommended by condition prior to the works commencing - to ensure that any extra burden from wear and tear on public roads does not fall on the Council.

In conclusion, it is inevitable that the construction of the access track will have an impact on the natural heritage and the ecosystems in and around the site boundary for the proposed development. However, as stated in the report, what has to be considered is whether these impacts are so adverse that the Council should put aside the inherent

presumption within the planning system which is in favour of development unless the adverse impacts of a development would significantly and demonstrably outweigh the benefits, in this case a key enabling component to a sustainable energy development.

Objections received have raised material planning concerns, as have the comments from statutory consultees. Further submissions of information have been forthcoming from the applicant and as a result SEPA have now removed their objections subject to conditions they recommend being attached to any consent.

When considered against the relevant policies within the SLDP the evidence in the Planning Service's view gives rise to the conclusion that while there will be impacts on peatland, the water environment and habitat, these can be satisfactorily managed. Appropriate conditions attached to a consent will ensure that all the aspects of concern raised will be the subject of the further submission of information or survey work, and be addressed so as to allow development to take place. It is therefore recommended that the Planning Committee grants approval of the application, subject to the conditions set down in Appendix 3 to the report".

The Chair referred to the two objections received on the application, being Sustainable Shetland, who she noted was represented at the meeting by Mr J Mackenzie, and also from Mr and Mrs Morrison, who did not appear to be present.

Mr Mackenzie stated that he had not been advised that he could address the meeting on this application, so he was not prepared in that regard. He added however that the objection as submitted from Sustainable Shetland, attached as an appendix to the report, would still stand. The Team Leader indicated that the invitation to attend today's meeting would have been sent to the Chair of Sustainable Shetland.

Mr A Priest, Viking Energy Ltd, advised that Mr J Watt, Viking Energy Wind Farm LLP, had been unable to travel to Shetland today, so he would answer any questions from Members. Mr Priest commented that the principle of the 2km access track has already been established within existing approval, and advised that the revised and improved application would reduce impact and minimise disruption to users of the road.

In response to a question from Mrs Hughson as to whether there had been any dialogue with the resident near the turn off from the main road, Mr Priest clarified that the particular access was at Kergord, rather than it being the one immediately adjacent to the "Half Way House" at Sandwater. He advised however that there has been some ongoing discussion with the resident of the "Half Way House" on aspects of the wider project.

Mr G Smith enquired on proposals to manage the use and maintenance of the proposed access track. Mr Priest advised that the track would be handed over to Scottish Hydro Electric Transmission (SHET) at the appropriate time, as the track would facilitate the route to their convertor station. SHET would have responsibility for the structure and maintenance of the track. Mr Priest advised that throughout the construction of the wind farm, the access route would also be used by construction traffic at the wind farm. He added that SHET have very appropriate requirements to get kit into Kergord and therefore he expected SHET to have quite onerous standards to maintain the future of the asset.

In responding to a question on the potential for unauthorised use of the track, Mr Priest said that he would expect signage in place to discourage or prohibit unauthorised vehicle access, however he commented that there was the "right to roam". He added

that the convertor site would be protected by fences, with health and safety warnings of high voltage.

Mr C Smith enquired on any weight restrictions on the road between Sandwater into the Kergord junction. Mr Priest advised that there will be a separate application presented to Committee in early course, for a new access route from Sandwater junction to the junction of the access track. He said that this will be an entirely new route to the North of the existing Sandwater Road, intended for construction traffic and SHET traffic ultimately, to a standard which could be finished and adopted by the Council as Roads Authority.

There was no debate. Mr C Smith moved that the Committee approve the application, subject to the recommended conditions. Mr Bell seconded.

There was no one otherwise minded.

Decision

The Committee RESOLVED to grant approval of the planning application subject to the recommended planning conditions.

The meeting concluded at 4.40pm.

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Chair