

Directorate for Planning and Environmental Appeals

## Appeal Decision Notice

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Decision by Allison Coard, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2103
- Site address: Land 1600 metres west of Craiggie more, Tressady Estate, Rogart
- Appeal by Wind Prospects Developments Limited against the decision by Highland Council
- Application for planning permission 13/02749/FUL dated 19 July 2013 refused by notice dated 25 February 2014
- The development proposed: The construction and operation of a wind farm consisting of thirteen wind turbines and associated infrastructure including site entrance, access tracks, switchgear building and compound, permanent meteorological mast, temporary construction compound, water crossings and upgrading to the access route to the wind farm site.
- Date of site visit by Reporter: 20 June 2014

Date of appeal decision: 6 August 2014

### Decision

I dismiss the appeal and refuse planning permission.

### Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan the main issues in this appeal are:
  - the landscape and visual impact of the proposal;
  - the impact on residential amenity;
  - the impact on the historic environment; and
  - whether the impacts of this proposal are acceptable when balanced against its benefits.
3. In assessing these matters I have taken account of the Environmental Statement as published in July 2013. A revised plan of cumulative wind farm development was submitted with the appeal. This shows no change to the existing wind farms within 20 kilometres.



Most significantly these include the Kilbraur windfarm and extension with 19 turbines of 115 metres in height and Gordonbush which has 35 turbines at a height of 110 metres. These are at a distance of 5.3 and 14 kilometres respectively from the appeal site. There are no new consents and a reduction in the number of applications pending given that one was withdrawn. An application for 15 turbines at Balnacoil (9.5 kilometres from the appeal site) is subject of a current appeal. I am content that there are no changes to the baseline that would require any further assessment.

4. I have also taken account of the additional information submitted by the appellant to re-assess the visual impact from all 64 residential locations in the Environmental Statement from either the roadside and/or house and garden areas.

5. The National Planning Framework and Scottish Planning Policy were replaced in June 2014. I have taken account of additional submissions that were made in this respect.

#### Landscape Impact.

6. The Caithness and Sutherland Landscape Character Assessment defines the area in and around the site as “Sweeping Moorland”. I note that Scottish Natural Heritage consider the layout of the development to be broadly appropriate to this landscape character type. I agree with this assessment. The sweeping expanse of the open moorland reflects that typically associated with windfarms.

7. Figure 7.23 of the Environmental Statement shows that the site is bounded within a distance of around 1-3 kilometres by the “Straths and Valleys” and the “Small Farms and Crofts” landscape character types. The Environmental Statement concludes a moderate to slight indirect cumulative impact on these adjoining areas.

8. In my opinion, the proximity of these areas, their open-ness and the degree of inter-visibility between them would create a stark contrast between moorland with windfarms to the east and west and the much smaller scale landscape characterised by houses, farms, trees and field boundaries. Whilst Scottish Natural Heritage has not objected it supports my view that there would be a significant adverse impact on these adjoining landscape character types.

9. Scottish Natural Heritage also considers the proposal would have a significant impact on an area characterised as wild land, approximately 7.5 kilometres north of the appeal site. It also recognises the wild land character of the area directly to the north of the site. Scottish Planning Policy clarifies that in the absence of an up to date spatial framework, within the development plan, the protection of wild land remains a relevant consideration.

10. I consider that the proposal would have extensive visibility across this nearby area of wild land and that the impact would be significant. However, I agree with Scottish Natural Heritage that this impact is substantially reduced by the existing influence of windfarm development at Kilbraur and Gordonbush. Representations requested further consultation with Scottish Natural Heritage in light of publication of the new National Planning

Framework and Scottish Planning Policy. However, I am satisfied that I already have its clearly stated view that the proposal would not generate new or additional impacts that significantly compromise wild land character.

### Visual Impact

11. The turbines would have a maximum tower height of 70 metres with a maximum blade tip height of 115 metres. They would be located on an area of moorland at an elevation of around 200 metres set against a backcloth of hills. I consider its visual impact would be accentuated by its location in proximity to the surrounding road network and dispersed rural community.

12. Surrounding minor roads link Rogart through to Balnacoil and serve groupings of housing around East and West Langwell, Drumanairguid, Knockarthur, Rhilochan and Dalreavoch. My assessment of the site from the various viewpoints included in the Environmental Statement demonstrates the widespread visibility of the proposal when viewed from the surrounding local area particularly within a 3 kilometres radius:

- Viewpoint 1: West Langwell, nearest Turbine 1.025kilometres. This road-side viewpoint shows the cumulative impact of the Tressady proposal with the existing turbines at Kilbraur in the background. I consider the visualisations understate the cumulative impact given the mitigating effect of the snow on the hills. In my opinion, the two windfarms would result in a cluttered view of a large number of turbines and appear as a very significant and dominant feature in the landscape. Whilst this road provides no through access it does serve some residential properties.
- Viewpoint 2: East Langwell: 1.724 kilometres from the nearest turbine. This viewpoint on the local road to the south of East Langwell shows the intervening landform and existing vegetation between the housing and the windfarm. Figure 7.38e illustrates how existing residential and other buildings provide a scale comparator to the proposal. The turbines are a dominant feature when viewed in such close proximity directly behind the existing houses and other buildings.
- Viewpoints 3 and 4 Craiggie Beg and Knockarthur: The wireline drawings and more specifically the visualisation in Figures 7.39e and 7.40e illustrate the impact of the proposal on the local road network and surrounding residential properties around Craiggie Beg and Knockarthur. The proposal would be an expansive and significant feature in the landscape.

13. Figures 7.26a)-e) illustrate the visual impact of the proposal from the road linking Rogart through to Rhilochan and beyond to Balnacoil. The impact on Little Rogart and the church is mitigated by landform but the proposal would be a significant feature in the landscape by point c; at the road junctions labelled as point d, e and f and at points in between. This 3 kilometre cordon also includes 57 residential properties. The local road network links through from Rogart to Dunrobin Glen in the south-east and Balnacoil in the north-east.

14. In paragraph 6 above, I recognise the capacity of the moorland landscape to accommodate windfarms. However, Tressady unlike Kilbraur and Gordonbush is at a comparably lower elevation with more open visibility and in proximity to a higher number of visual receptors. The scale of this visual impact could appropriately be described as local but it remains significant and in my view detrimental.

15. I note the appellant considers that cumulative visual impact is mitigated by the degree of separation, the intervening area of settlement and the limited extent to which Kilbraur and Tressady would be seen together in the same view. I disagree. I consider that an additional windfarm in this visible location, of this scale and in such proximity to Kilbraur would create a landscape where windfarms become a dominant and defining feature surrounding local roads and houses. Scottish Natural Heritage reflects my conclusion in highlighting the extent and sensitivity of visual receptors in these areas and in recognising that the greatest cumulative effects are likely to be experienced by road users, residents and visitors, in locations between Rogart and Balnacoil.

16. The two windfarms would generally (with the exception of West Langwell) be seen in opposing or different views. I find this would significantly increase the impact of windfarms on this locality to give an impression, particularly around Knockarthur, of being surrounded by windfarms. Scottish Natural Heritage in its guidance document, submitted as APP4.3: 'Assessing the Cumulative Impact of Onshore Wind Energy Developments' (March 2012) provides a relevant example of a similar cumulative effect:

*"Wind farm A sited on a ridge on one side of a valley is highly visible but acceptable, providing a single visual focus on an otherwise unremarkable skyline. A second wind farm B on a ridge on the other side of the valley would have a similar effect, if it were on its own. However, the effect of having two wind farms sited on either side of the valley may be to make the observer feel surrounded by development. The combined effect of both may be much greater than the sum of the two individual effects."*

17. I have also assessed the extent of cumulative visual impact from more distant viewpoints specifically viewpoints 10 and 17 – Scibbercross and Meallan Liath Mor where Tressady would be visible in combination with Kilbraur and Gordonbush. I consider the cumulative impact from these view-points would be moderate to significant. However, I agree with the Environmental Statement that the lower number of visual receptors in these areas and the effect of distance serve to mitigate the extent of the visual impact from these locations.

### Residential Impact

18. I note from the appellant's further submissions that of the 57 residential properties in the 3 kilometre radius of the proposal, the views from 19 would be significantly affected. This assessment considers that one of the three properties within a kilometre, one of the 10 properties within a 2 kilometre radius and 17 of the remaining 44 would have significant and/or significant cumulative views of the proposed development. However, the

assessment concludes that no properties would be affected to an extent that the property would be regarded as an unattractive (as opposed to a less attractive) place to live.

19. The council's reasons for refusal are based on an unacceptable visual impact on residential properties at Knockarthur, West and East Langwell. I note that none of these groupings are defined as settlements in the local development plan. On my site visit, I considered the impact on these dispersed rural communities in the round as well as visiting those properties where residents raise more specific amenity issues.

20. Of the houses I visited, I agree with the appellant that visibility of the proposal from the majority of these properties would be restricted to rear/side windows, gardens, and driveways and on approach along the public road. I have noted those with a financial interest and I accept there is a degree of mitigation provided by landform and/or vegetation. However, trees outwith the appellant's control may be felled or cut back. In the absence of this screening the windfarms at Kilbraur and Tressady, in varying degrees and combinations, would be highly visible from a number of properties albeit not generally in the same view.

21. I accept that the orientation of the majority of the houses means that it is unlikely that any single property would become undesirable to live in. I also accept that view alone is not a relevant planning consideration. However, I consider that the assessment of impact on residential amenity has a wider interpretation which extends to the assessment of whether the visual impact on this rural community and the countryside setting it currently enjoys is acceptable.

22. This significant cumulative change in the landscape would be experienced in close proximity and on a daily basis by local residents who live in and around Knockarthur, East Langwell and West Langwell. Residents around Knockarthur would live between and in close proximity to two windfarms. Whilst some view this additional change positively, as evidenced in the submitted letters of support, the council and a number of local residents share my concerns. The proposal would also impact on the wider community in and around Rogart who may use the local road network on a regular basis. I find the proposal would be to the significant detriment of the visual amenity and rural setting that local residents currently enjoy.

#### Impact on the historic environment

23. Cultural Heritage Viewpoint 2, Figure 8.7 illustrates the visual impact of the proposal when viewed from the Cnoc an Liath-Bhaid stone circle which is a Scheduled Monument. All thirteen turbines are visible at a distance of 1.5 kilometres. Given the extent and proximity of the proposal, I agree with Historic Scotland that it would impinge on the setting of the stone circle to an extent that its sense of place would be altered. Compensatory mitigation is offered but Historic Scotland does not consider that this would mitigate the significant adverse impact of the proposal to a meaningful degree. Whilst Historic Scotland state that the proposal does not raise issues of such significance as to warrant an objection it states that this view is finely balanced. My conclusion, from the above, is that there would be a significant adverse visual impact on the setting of the stone circle.

## Development Plan

24. Policy 67 of the The Highland Wide Local Development Plan (2012) is specific to renewable energy developments. It requires assessment as to whether the proposal is significantly detrimental overall having regard to the identified effects on visual impact on the landscape character of the surrounding area. The design and location should reflect the scale and character of the landscape and seek to minimise landscape and visual impact.

25. Policy 67 also points to the additional detail contained in the Highland Renewable Energy Strategy and Planning Guidelines where the site falls within an identified “Area of Search”. I accept the appellant’s view that this is supplementary guidance and should be read in the context of Policy 67 which clarifies the need to balance the various considerations rather than simply avoid any significant adverse effects.

26. My assessment of the proposed development against the criteria of policy 67, taking into account my reasoning above, is that there would be a significant adverse impact either individually or cumulatively on:

- landscape character;
- visual amenity;
- visual amenity at residential properties; and
- cultural heritage.

27. Policy 28 on Sustainable Development is a more general policy but applies a similar requirement to avoid significant detrimental impact in terms of a number of criteria. My conclusions above identify conflict with the fourth bullet point in terms of community residential amenity considerations and with the sixth bullet point in terms of the significance of the local landscape impact and impact on cultural heritage.

28. Taking these policies together and given that Policy 67 is specific to renewable energy the key issue is whether there would be a significant detrimental impact overall, either individually or cumulatively with other developments. In this respect, Policy 67 recognises the contribution of such development to meeting national renewable energy targets as well as any positive impact on the local and national economy. Policy 28 gives weight to any contribution to the economic and social development of the community.

29. I have carefully considered the appellant’s submission regarding the benefits of the proposal. I recognise that its assessed contribution of 32.5 MW of electricity would make a meaningful contribution towards achieving the UK and Scottish Governments’ renewable energy generation targets and have a positive effect on greenhouse gas emissions. It would also have a positive impact on the national economy and provide a degree of local economic benefit.

30. Given the nature and extent of the impact on the historic environment and the lack of objection from Historic Scotland, I do not consider this factor alone outweighs the benefits

of the proposal. However, I find that the identified landscape and visual impacts as set out above would tip the balance of acceptability. In combination with Kilbraur, windfarms would become an over-dominant and distinguishing feature of the locality. Consequently, I conclude that there would be a significant detrimental impact overall contrary to Policies 67 and 28.

### Other matters

31. I agree that the proposal would contribute to the objectives of the National Planning Framework to enable a low carbon economy and to continue to capitalise on the wind resource. Scottish Planning Policy reflects this and adopts a similar balancing exercise to that set out in the Highland Wide Local Development Plan. Whilst it gives weight to the benefits of the proposal, paragraph 170 states that windfarms should be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities. For the reasons stated above, I find conflict in this respect.

32. The other identified impacts of the proposal include noise and shadow flicker as well as the requirement for a construction haulage route linking through from the Kilbraur windfarm. This would require some upgrading of the existing road. Local concern is expressed on a number of these matters. However, I agree with the council and appellant that these matters could be addressed through appropriate mitigation secured through condition and/or a legal agreement.

33. I accept the merit of this location in so far as it avoids wider tourism and economic impacts as reflected in the recommendation for approval by the council's planning officer. I have also carefully considered the representations in support of the proposal. However, I do not share the view that the benefits of the proposal would outweigh its significant detrimental local impact.

34. The appellant draws support from a number of other appeal decisions but circumstances are rarely comparable and the assessment of landscape and visual impact is recognised to be very location specific. In addition, the required balancing of the acceptability of any proposal is also specific to each case.

### Conclusion

35. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*Allison Coard*

Reporter