

Energy and Climate Change Directorate
Electricity Division

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Dear Ms Foot,

REFUSAL OF CONSENT FOR THE CONSTRUCTION AND OPERATION OF THE GLENMORRIE WIND POWERED ELECTRICITY GENERATING STATION, LOCATED APPROXIMATELY 10KM SOUTH-WEST OF BONAR BRIDGE IN THE HIGHLAND COUNCIL AREA

I refer to the Application made by Glenmorrie Wind Farm LLP, (“the Company”) dated 10 November 2011 for consent under section 36 of the Electricity Act 1989 (“the Act”) for the construction and operation of Glenmorrie Wind Farm electricity generating station, located approximately 10km south-west of Bonar Bridge. The application was for a wind farm with 43 turbines and a maximum generating capacity of 134MW.

The Company submitted Supplementary Environmental Information (SEI) on 20 June 2012 which reduced the number of turbines to 34, with a generating capacity of up to 116MW.

This letter contains the Scottish Ministers’ decision on the Application.

Consultation

Under Schedule 8 of the Act, the relevant Planning Authority must be notified in respect of a section 36 consent application and this was done. In addition notifications were sent to SNH and SEPA. A wide range of other relevant organisations were also consulted.

In accordance with the Electricity Works (Environmental Impact Assessment)

(Scotland) Regulations 2000 (“the EIA Regulations”) the Company submitted, on 10 November 2011, an Environmental Statement. In accordance with statutory requirements, advertisements of the Application were made in the local and national press and they were placed in the public domain, and the opportunity given for those wishing to make representations to do so. The Scottish Ministers are satisfied that the EIA Regulations have been complied with regard to the submission of environmental information and publicity and consultation.

In addition to representations by the planning authority, SNH and SEPA, 248 public representations were received – 210 objections and 38 in support. A summary of consultation responses and third party representations are contained within Chapter 1 of the Public Local Inquiry Report.

Public Local Inquiry (PLI)

Highland Council objected to the application and in accordance with paragraph 2 of Schedule 8 to the Electricity Act a PLI was held.

The PLI was held in Ardross Community Hall from 21 to 24 October, with accompanying site inspection on the 3 September 2013. The Reporter subsequently made unaccompanied site inspections before, during and after the oral sessions.

The Report was received by the Scottish Government on 8 May 2014.

In chapters 2 to 5 of the Report, the Reporter has summarised the cases for the parties, taking account of the precognitions, hearing statements, the discussion at the inquiry and hearing sessions and the closing submissions. The Reporter also took into account the environmental information in the Environmental Statement, the Addendum and Supplementary Environmental Information, written representations and all of the other information supplied for the PLI and hearing sessions.

The Reporter’s reasoned conclusions are contained in chapter 7 of the Report and his overall conclusions are contained in paragraphs 7.125 to 7.135, where he says:

“7.125 With reference to my findings above, I find the determining issues in relation to the section 36 application to be:

- (i) energy policy and the need for the proposed wind farm;
- (ii) its environmental and other impacts, including those referred to in Schedule 9 of the Electricity Act;
- (iii) the development plan policies and other planning policy guidance and advice.

7.126 The determining issues in relation to the deemed planning application are: the development plan and other material considerations, including energy policy; other planning policy guidance and advice and the environmental and other impacts.

7.127 The proposed development would make a significant contribution towards meeting national renewable energy targets, is supported in principle by

current energy policy and there is a need for it. However, the aim of Government policy is to develop Scotland's renewable energy potential where the environmental impacts of proposals are acceptable.

7.128 The individual and cumulative impact of the proposed development on the character of the surrounding remote, upland landscape would be significant and adverse. Government policy recognises that remoter mountain areas are very sensitive to any form of development or intrusive human activity. The impact on part of the Fannichs, Beinn Dearg and Glencalvie Special Landscape Area would be significantly detrimental and there would be an adverse impact on the integrity of the Ben Wyvis Special Landscape Area designation as a whole. The proposed development would have a significantly detrimental impact on the wildness qualities of a significant proportion of the adjacent Search Area for Wild Land and its approval would not safeguard the wild land resource of the area.

7.129 In addition, the proposed development would have significant adverse visual impacts, both individually and cumulatively, on upland locations and on Strath Rusdale and its residents. The impacts would affect both landscapes and visual receptors (residents and others engaged in outdoor recreation) which are particularly susceptible to change. The avoidance of adverse impacts on the more heavily populated lowlands would not justify an upland location where the level of impact on these highly sensitive landscapes and receptors would be so detrimental.

7.130 The applicant removed 9 turbines from the original wind farm proposal in an attempt to mitigate the landscape and visual impacts on the natural beauty of the area. However, the overall scale of the amended design (34 wind turbines of 125 metres in height to blade tip, 31.9 kilometres of new access tracks either 5 metres or 8 metres in width, 34 crane hardstandings, 5 borrow pits and other associated infrastructure) would, as described above, still have significant adverse environmental impacts both alone and cumulatively.

7.131 Turning to the tourism, recreational and economic impacts, the proposed development would have modest economic benefits, locally, during operation (low elsewhere), with a more substantial contribution during the construction phase. There would also be possible improvements to recreational access through the multi-functional use of the permanent access tracks.

7.132 In relation to other matters, I am satisfied that subject to mitigation by the imposition of planning conditions and a legal agreement, there would not be unacceptable impacts with regard to water courses and fishing interests, carbon emissions, residential amenity (excluding visual impact) or transportation. I am content that any outstanding issues with regard to nature conservation, flood risk, archaeology/cultural heritage, aviation and telecommunications impacts can be resolved by the imposition of planning conditions.

7.133 Finally, with regard to development plan policies and other planning policy guidance and advice, the proposed development would conflict with the landscape, visual and cumulative impact aspects of national planning policy and the

Highland Wide Local Development Plan. This must be balanced against the strong planning policy support for renewable energy development and the benefits of the proposal.

7.134 Having taken all of the above into consideration, I conclude that the benefits of the proposed development in making a significant contribution to national renewable energy targets, a modest contribution to the local economy during operation with a more substantial contribution during construction and possible improvements to recreational access, would not outweigh the significantly detrimental landscape and visual impacts on the local environment and community. The overall scale of the proposed wind farm and its associated infrastructure would accentuate the adverse impacts on the environment and community to a degree which would be unacceptable. Although the applicant has fulfilled the duties required by Schedule 9 of the Electricity Act by having due regard to those relevant matters and mitigation in the Environmental Statement, Addendum and Supplementary Environmental Information, the environmental impacts of the proposed development would not be acceptable. In a balance of benefits against disbenefits, the proposed development would be contrary to both national planning policy and the local development plan.

7.135 I have considered all other matters drawn to my attention in both the written and oral evidence including the fact that council officers recommended that their members should not object in this case, but find none to lead me to a different conclusion.”.

The Reporter recommended that section 36 consent should be **refused**.

Scottish Planning Policy 2014

The Scottish Government supports onshore wind energy development in appropriate locations. The recently published revised SPP outlines Scottish Government planning policy on energy infrastructure developments.

The Scottish Planning Policy 2014 (SPP) introduces a presumption in favour of development that contributes to sustainable development. It sets out that policies and decisions should be guided by certain principles, including: giving due weight to net economic benefit; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

In remote and fragile areas and island areas, SPP encourages development that provides suitable sustainable economic activity, while preserving important environmental assets such as landscape and wildlife habitats that underpin continuing tourism visits and quality of place.

In remote rural areas, where new development can often help to sustain fragile

communities, plans and decision-making should generally:

- encourage sustainable development that will provide employment;
- include provision for development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact.

The SPP also notes that Wild land character is displayed in some of Scotland's remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development. Recognising the need for significant protection for wild land, SPP 2014 places wild land within Group 2 – areas of significant protection – within its table for spatial frameworks. It sets out that in these areas wind farms may be appropriate in some circumstances, and that further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

SPP also advises that areas identified for wind farms should be suitable for use in perpetuity. Consents may be time-limited but wind farms should nevertheless be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities.

The Scottish Ministers' Consideration

The Scottish Ministers have considered fully and carefully the application, the Environmental Statement, the Addendum and Supplementary Environmental Information, consultation responses, public representations, the findings, conclusions and recommendation of the Reporter and all other material considerations.

Ministers have considered the Reporter's reasoning and conclusions in the context of the new SPP, and are of the opinion that the Reporter's conclusions are still valid for the purposes of this decision. The 2014 SPP is explicit in a way the previous SPP was not in setting out a presumption in favour of development that contributes to sustainable development, but the previous SPP did similarly set out a strong policy position in favour this type of development. Ministers consider that the conclusion the Reporter reached that the environmental impacts of the proposed development would not be acceptable remains valid, and because of that are of the view that this Development does not represent sustainable development, in particular given the significance and extent of the landscape and visual impacts which the Reporter has set out.

The area of this Development now sits largely on Wild Land Areas as shown on the 2014 SNH map of these areas, where previously it was adjacent to the Search Areas for Wild Land (SAWL). The Reporter highlighted the significant detrimental impact the proposed development would have on the wilderness qualities of wild land in the area around the development. Ministers have considered the Reporter's conclusions regarding the impact on the wilderness qualities of the area, which remain relevant,

in the context of the new SPP and the fact that the prospective site now sits largely in a Wild Land Area in SNH's 2014 map. Ministers have concluded that, if anything, the wild land impacts are of greater concern in the context of the new map and SPP than they were in the context of the previous SPP and map of SAWLs, and therefore that these considerations only lend weight to a decision to refuse the Development.

The Reporter has set out that the development does provide economic activity and employment, which is encouraged in remote and fragile areas in the 2014 SPP. However, having considered the findings of the Reporter around the impacts of the Development in the context of SPP, Ministers do not consider that the development appropriately preserves landscape assets that underpin continuing tourism visits and quality of place in the area. Ministers consider that the environment impacts of the Development remain unacceptable.

Ministers have therefore concluded that the Reporter's conclusion remains relevant that, in a balance of benefits against disbenefits, the proposed development would still be contrary to both national planning policy and the local development plan.

Scottish Ministers agree with the Reporter's reasoning and conclusions and adopt them for the purposes of their own decision.

The Scottish Ministers' Determination

Scottish Ministers **refuse the application for consent** under section 36 of the Electricity Act 1989 for construction and operation of the Glenmorie Wind Farm.

In accordance with regulation 10 of the EIA Regulations the applicant must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the application relates is situated.

Copies of this letter have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents and Deployment Unit website.

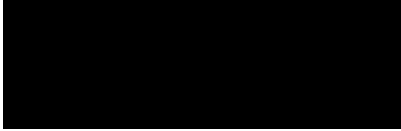
The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts –

<http://www.scotcourts.gov.uk/docs/default-source/cos---rules/chap58.pdf?sfvrsn=4>

Your local Citizens Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Scottish Ministers acknowledge the changes in the recently published Scottish Planning Policy and Scotland's Third National Planning Framework and conclude the changes do not alter their decision.

Yours sincerely



SIMON COOTE
Head of Energy Consents and Deployment

