

Directorate for Planning and Environmental Appeals

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Ms K Lyons
Highland Council
Sent By E-mail



Our ref: PPA-270-2116

25 March 2015

Dear Ms Lyons

PLANNING PERMISSION APPEAL: ROOTFIELD FARM MUIR OF ORD IV6 7RF

Please find attached a copy of the decision on this appeal.

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action.

I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

Christine Brown

CHRISTINE BROWN
Case Officer
Directorate for Planning and Environmental Appeals



Appeal Decision Notice

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Decision by Jill Moody, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2116
- Site address: Rootfield Farm, Muir of Ord IV6 7RF
- Appeal by: Nicholas MacKenzie against the decision by The Highland Council
- Application for planning permission: reference 13/00284/FUL, dated 24 January 2013, refused by notice dated 15 October 2014
- The development proposed: "Installation of 1 no wind turbine (24.6m to hub), access and associated works"
- Date of site visit by Reporter: 29 January 2015

Date of appeal decision: 25 March 2015

Decision

I dismiss the appeal and refuse planning permission for the proposed development described above.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. In this case, the adopted Highland Wide Local Development Plan is the development plan and the council based its reason for refusing planning permission on Policy 67. Policies 28, 36, 57, 58 and 61 have also been drawn to my attention as relevant.

2. Having regard to all of these development plan policies, I find that Policy 67 is the only one that relates explicitly to proposals for renewal energy developments such as this single wind turbine. The requirements from Policies 57 and 58 are embodied broadly in Policy 67, as is Policy 61, albeit without specific reference to the Landscape Character Assessments for the area. Policy 36 defers to Policy 67, and raises similar issues about compatibility with landscape character and acceptable siting and design. Policy 28 cross refers with Policy 67 in terms of impact on natural heritage, residential amenity, local character and the need for sensitive design, before stipulating that a development causing significant harm in these respects would not accord with the development plan. The appeal submissions indicate agreement between the council and the appellant that those aspects of Policies 28 and 36 missing from Policy 67 are either satisfied, or they are not determinative in this case. I find no reason to disagree.

3. Policy 67 expects the consideration of impacts for ground water, the safe use of airports and fly zones, the use of all types of communications equipment, recreational use and enjoyment, transport interests, and cultural heritage. The council's evidence, along with that from the various relevant consultees and the appellant, confirms that these impacts are either acceptable or insignificant, because of the small scale of the proposal.

4. For species and habitats, no safeguarding designations of particular individual importance have been drawn to my attention. The objections present anecdotal evidence about possible harm to bird species such as red kites and ospreys, who nest and forage in the area. Scottish Natural Heritage and the Royal Society for the Protection of Birds as experts, do not support these concerns, which satisfies me that this aspect of Policy 67 along with Policies 28 and 58, would not be breached by the proposal.

5. The remaining development plan policy provisions can be grouped into common themes. These broad themes form the main issues for consideration in this appeal and they are as follows:

- the effect that the proposal might have on the character and visual amenity of the surrounding landscape (Policies 28, 36, 57, 61 and 67);
- the impact that the proposal might have for the residential and visual amenity of local housing and the area (Policies 28, 36 and 67); and
- whether the proposal offers important socio-economic benefits for the area (Policies 28 and 67).

6. The Landscape Character Assessment mentioned in the development plan has not been submitted, but the Planning and Design Statement submitted to support the planning application states that it defines the landscape as crofting. The council's report of handling describes the landscape character as a farmed, but containing small groups of houses, clumps of trees, rounded hills and distinct field boundaries. Based on my site visit, I agree with these broad descriptions. More specifically however, I add that the landscape forms a comparatively low-lying land bridge between the Beaully/Moray Firth to the south east, and the Cromarty Firth to the north and east. The landscape also separates the hills of the Black Isle to the east, which include the distinctive and prominent Millbuie Ridge, and the more rugged, western mountains around Strathconon Forest. The site area is partially visible from the edges of these higher landscapes. Closer to the appeal site, the landscape comprises interlocking rounded ridges that roll down to each Firth. The hills on the horizons are clearly visible from the open tops of these ridges. The landscape is also characterised by an extensive network of major and minor public roads and scattered, unobtrusive buildings set in farmland, much of which is pasture. The firths and hills, the geometric, well-defined field boundaries, the tree plantations and shelter belts all give the lower ground a strong sense of enclosure. Where buildings are positioned on hill crests and ridges, their verticality tends to be emphasised because they are on the skyline and surrounded by the smooth, rounded profile and horizontal emphasis of the fields. The steading and silo at the appeal site exemplify this.

7. The proposed turbine would measure 24.6 metres to the hub height, plus 9.6 metres to blade tip, bringing the overall height to 34.2 metres. The appeal submissions state that the nearby silo is 20.1 metres high, so that the overall turbine height would be some 14 metres taller. At this height, the turbine would project well above the silo and the mature

trees nearby, including those along the access to Rootfield Farm. I consider that this additional, strong vertical new element would not balance well with the lower, more horizontal emphasis and character of the surrounding landscape. From many locations, the turbine would also look out of place against the settled landscape character that I have described and it would amount to a different type of structure in a local landscape that is currently free of anything similar. Further, while I understand the need for a separation distance to catch the optimum wind and to provide clearance, I consider that the proposed location for the turbine, which is set apart from the silo and the farm steading, would have no clear physical or obvious functional relationship with the farm, so that it would not integrate with existing features in the landscape.

8. Because of all this, I conclude that the scale and form of the proposed turbine would be at odds with the local landscape character. By its very nature, a wind turbine cannot avoid having an impact on its host landscape, but using my experience to judge how I think the proposal might be seen and perceived in the context of established landscapes and existing features, I consider that the landscape impact in this instance would be substantially negative. I appreciate that other vertical features are to be found in the wider landscape. For example, at least 3 other turbines and a network of pylons can be seen. However, these are mostly located on the opposite side of the Cromarty Firth and at considerable distance from the appeal site, so that their impact on the local landscape is diminished substantially.

9. Next, I have considered the visual assessment information submitted to support the planning application, as well as the supplementary material that was submitted from the appellant at my request. Having compared the submissions carefully, and matching them against my observations on-site, I find that the assessment information provided is incomplete, as well as mutually inconsistent and misleading in many important respects. As a result, I consider that the appellant's submissions cannot safely be relied upon.

10. I visited all of the viewpoints that are mentioned in the submissions. I noted that the proposed location for the turbine is on a north west facing hillside, but it is also near the hill ridge. Using the silo at Rootfield as an indicator, I am satisfied that in this location, the turbine would be widely obvious and strongly dominant in many views across the landscape, from due south, right around through the west and north quadrants, to due east. The turbine would also be highly visible to road users:

- for long stretches of the minor road from the memorial by Mulbuie School, back to the A835 main Ullapool road by the council's salt depot;
- from the B6169 road from Drynie Park; and
- in eastbound views along a short stretch of the busy A835 as it rises from Conon towards the depot and the Tore roundabout.

These visual impacts would reduce with distance and their severity would sometimes be softened or hidden by tree screens and other landforms, but especially at close range, the general impact would be significantly negative.

11. It is generally not appropriate for the protection of individual private views to outweigh the public interest that is inherent in the generation of more electricity from

renewable resources. However, collective amenity impacts for local residents require particular attention because residents tend to see a turbine:

- from a wider range of locations;
- in different weather conditions; and
- more often and at different times of the day, as well as seasons.

Residents also tend to stay for longer periods of time in places where they are exposed to views and they are far more familiar with, and place a very high value on their enjoyment of, an established and accustomed landscape. Because of all that, change is more noticeable and it tends to have a more immediate and dramatic impact on residential, as compared to general, amenity. In this case, I found a significant number of homes within a close radius of the site where I am satisfied that the proposed turbine would be highly visible from main rooms and gardens. Many of these homes are about 500 metres from the site and, while they are in scattered locations, the most affected tend to focus on Newton of Ferintosh, Newton of Kinkell, Muir of Allangrange, Highfield Park, and Mulbuie. I am satisfied that the collective impact of this proposal on so many houses nearby increases the significance of the visual and residential amenity impact of the proposal.

12. Therefore, for the reasons set out above, I consider that the appellant's assessment under-represents the harmful visual impact of the proposal, especially for local residents. The turbine would be seen frequently and at comparatively close range as a disruptive, dominant tall, man-made, moving feature on the skyline and a significant number of residents would see the whole turbine at close proximity above them. As a result, residents would have their collective amenity dominated and diminished by the proposed turbine to a degree that I regard as unacceptable.

13. Turning then to consider the potential socio-economic benefits that the proposal might bring, the evidence submitted to support the appeal emphasises the importance of reduced electricity costs in maintaining the viability of this last remaining local dairy farm. The electricity generated by the turbine would help to power cooling and other farm equipment, so that it would secure jobs and assist with diversification into other products such as ice cream. In turn, this would create more jobs and add value to the farm's milk output. While these aims are undoubtedly desirable, no verifiable or quantifiable evidence has been provided to show the impact that electricity from the turbine would have for the farms' viability, or to confirm the appellant's diversification intentions. Without that kind of evidence, I am unable to justify a conclusion that the proposal would accord with development plan Policies 28 and 67 in this respect. Similarly, I cannot justify placing greater weight on these economic benefits than the harmful landscape, visual and residential amenity impacts that I have described above.

14. Having regard to all of the above, I am satisfied that the proposal would accord with aspects of the relevant development plan policies. However, the turbine would harm the landscape, visual and residential amenity of the surroundings to an unacceptable degree, in contravention of Policies 28, 36, 57, 61 and 67. Because I consider that these shortcomings are of overriding importance in this case, I find that overall, the proposal does not accord with the relevant provisions of the development plan. Given this conclusion, it falls next for me to consider whether any of the material considerations raised might justify granting the proposal as an exception to the development plan.

15. The appeal submissions mention the council's Interim Supplementary Guidance notes, along with National Planning Framework 3 (NPF3), and Scottish Planning Policy (SPP). Because these Guidance notes have not been adopted as statutory supplementary guidance, they are not yet part of the development plan, so they remain material considerations without development plan status in decision making.

16. The council's Guidance for "Onshore Wind Energy", which is dated March 2012, recognises the contribution that single wind turbines make to a mix of renewable energy generation options. However, the detailed provisions of the Guidance relate only to bigger wind farms. The Interim Supplementary Guidance on "Small-scale Wind Turbine Proposals", which is dated November 2012, is more relevant to the proposal and it explains the application process and the information requirements for the assessment of proposals. This Guidance also addresses some aspects of Policy 67 in greater detail. Arguably though, its terms do not support the proposal because it states that the height of any turbine should relate to existing vertical elements, as well as that the landscape and visual impacts resulting from prominent ridge locations are generally not desirable. I have described above why I consider these requirements would not be satisfied in this case.

17. NPF3 sets challenging targets and contains general support for the generation of more energy from renewable sources. This includes onshore wind as part of the whole potential mix, and the benefits of that for rural Scotland in particular are recognised. However, NPF3 leaves it to SPP to guide how this might be achieved. SPP balances general support with the careful consideration of impacts, and it describes the kinds of considerations that development plan policies should cover. Those listed are similar to the requirements of the Highland LDP, especially Policy 67. In particular, landscape and visual impact and amenity are included. Again, I have set out above the reasons why I consider that these impacts would not be acceptable in this case.

18. Accordingly, I am satisfied that the material considerations raised do not give explicit support to proposals for single wind turbines such as this, nor do they justify setting aside current, relevant development plan provisions in favour of the proposal.

19. 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 that would justify granting planning permission.

20. I have considered all the other matters raised in the appeal submissions, but there are none that would lead me to alter my conclusions.

Jill Moody
Reporter