

## Appeal Decision Notice

T: 01324 696 400  
F: 01324 696 444  
E: [dpea@scotland.gsi.gov.uk](mailto:dpea@scotland.gsi.gov.uk)



Decision by Michael J P Cunliffe, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2131
- Site address: Land 2265 metres east of Dava Farm Cottage, Grantown on Spey
- Appeal by Ourack Wind Farm LLP against the decision by Highland Council
- Application for planning permission dated 3 February 2015 refused by notice dated 9 April 2015
- The development proposed: Erection of an anemometry mast up to 90 metres in height, guyed with a lattice tower
- Application drawings: Mast elevation WHTER MKT/900 90m; Mast 2 wind monitoring location plans 1:10k and 1:2500
- Date of site visit by Reporter: 11 August 2015

Date of appeal decision: 14 September 2015

### Decision

I allow the appeal and grant planning permission subject to the 6 conditions listed at the end of the decision notice. Attention is drawn to the 3 advisory notes at the end of the notice.

### Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are the landscape and visual effects of the proposed mast.
2. The site is on open moorland about 10 kilometres north of Grantown on Spey and 2 kilometres east of the A940. The Dava Way, a walking and cycle route which follows a disused railway line, runs about 1.5 kilometres to the west. The proposed mast would be of lattice construction, 90 metres in height, supported by five sets of guy ropes in a Y-shaped layout. The cross-section of the mast is not stated, but scales off from the elevation drawing at about 1 metre. Planning permission is sought for a limited period of two years to measure wind speed and direction as a preliminary to a possible wind farm scheme. The appeal is one of two, the other (PPA-270-2130) being for a similar mast located about 4 kilometres to the north-east.
3. The most relevant policies of the development plan are Policies 28, 57, 61 and 67 of the Highland Wide Local Development Plan 2012. Policy 28 (Sustainable Design) aims to

ensure that development is sustainable and identifies a number of criteria against which proposals must be assessed. These include impact upon individual and community residential amenity, and demonstrating sensitive siting and high quality design in keeping with local character.

4. Policy 57 (Natural, Built and Cultural Heritage) applies to heritage features including Special Landscape Areas (SLAs). When determining the impact on the landscape character and scenic quality and overall integrity of an SLA, attention will be given to its citation and in particular the key landscape and visual characteristics, its special qualities, and its sensitivities to change. Developments will be allowed if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.

5. Policy 61 (Landscape) states that new developments should reflect the landscape characteristics and special qualities identified in the Scottish Natural Heritage Landscape Character Assessments. Policy 67 (Renewable Energy Developments) states that the council will support proposals where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments.

6. The proposed mast would be within the Drynachan, Lochindorb and Dava Moors SLA. The council's Assessment of Highland Special Landscape Areas gives an overview. This landscape comprises high rolling moorland, which has a consistency of character derived from gentle gradients, limited relief, and management of much of the area as grouse moor. Key characteristics are the homogeneity of this area, its sense of spaciousness, wide views, and sparse human presence. Elements of human intervention are evident within this landscape, most obviously in the form of tracks, fences, muirburn patterns and fencing. However, it retains a strong sense of tranquillity as well as some wildness qualities, which are emphasised by an almost complete absence of built structures.

7. Key landscape and visual characteristics of the SLA include the strongly horizontal composition of elements dominated by the sky and moorland, and a simple and prominent skyline in between. The limited network of public roads through the area, lack of habitation and other built features and open character convey a sense of remoteness and isolation. This is reinforced by the notable consistency of this character throughout its extent. Special qualities include a sense of solitude, views over heather moorland, and big skies. As regards sensitivity to change, the undifferentiated moorland landscape, characterised by expansive horizons and broad panoramas, may be diminished by further features which break up the composition. The sense of isolation, extensive panoramas and impression of wildness could be compromised by the introduction of further buildings or other structures.

8. The appellant has produced maps showing the zone of theoretical visibility (ZTV) of the proposed mast, and wireline diagrams showing how the mast would appear from selected viewpoints on the Dava Way. These documents have been produced as part of the appeal, and were not before the council when it made its decision. I viewed the site from viewpoint 3 on the Dava Way south-east of Dava, from where the existing Berry Burn wind farm is visible in the background beyond the SLA. From here, the mast (Mast 2) at a distance of about 1.5 kilometres would appear as a prominent vertical feature with more

than half its height above the skyline. It would appear to have a noticeably greater scale than the existing turbines to the north-east, or the other proposed mast (Mast 1). The effects on the landscape as perceived from the Dava Way, and the visual effects on users of that route, would be moderately adverse.

9. Being of lattice construction the mast would have a considerably greater landscape and visual impact than the slender monopole type of anemometry mast, but less than a solid structure of similar dimensions. This is a large-scale landscape, but it is not devoid of vertical man-made features. The distant Berry Burn turbines would form part of the background, while there is an existing telecommunications installation on the slope of Carn Biorach about 1.2 kilometres north-west of the site. Nevertheless, the mast would to a limited extent erode the special qualities of the landscape as described in paragraphs 6 and 7 above.

10. The mast would be located about 2 kilometres from the nearest inhabited dwellings and there would be limited visibility from the A940. There would be more visibility over sections of the Dava Way, and from viewpoint 3 it would appear as a prominent feature. The ZTV map shows that it would be visible over about 2.5 kilometres of the Dava Way, and from this section there is virtually no screening. The total length of the Dava Way is 38 kilometres, so the mast would affect only 6-7 per cent of the route. While walkers and cyclists would be likely to note its presence, it would not be seen as a major feature of the experience and would not in my view significantly detract from the enjoyment of the journey.

11. Bearing in mind the limited extent of visibility and the limited duration (two years) of the development, I find that the landscape and visual impacts would be acceptable in terms of Policies 28, 57, 61 and 67 of the development plan. The proposal would therefore accord with the development plan.

12. I have taken account of the representations made to the council. These were mainly concerned with landscape and visual impacts, which are addressed above. Insofar as some of them appear to be motivated by concern about a possible future application for a wind farm, which would have much greater impacts, I am required to judge the present appeal proposal on its own merits and without regard to possible future developments. In terms of nature conservation, the water environment and peat, any impacts would be limited in extent and duration, and can be controlled by conditions.

13. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.

*Michael J P Cunliffe*

Reporter

## Conditions

1. The development shall be begun no later than three years from the date of this permission.

Reason: to take account of section 58 of the Act, which disapplies subsection (1) from planning permission granted for a limited period, and to specify a time within which development must begin.

2. Planning permission is hereby granted for a temporary period only and shall cease to have effect two years from the date on which the erection of the mast is completed, such date to be notified in writing to the planning authority within one week of the completion. Within one month of the end of this two year period, the application site shall be cleared of all development approved under the terms of this permission including any subsequent ancillary works, infrastructure and fixtures, and the ground reinstated to a condition comparable with that of the adjoining land.

Reason: To define the duration of the temporary permission, and to ensure that the equipment is removed and the ground reinstated in a timely manner.

3. No development shall commence until notification has been made to the Defence Geographic Centre with the following information:

- i. The precise location of the development;
- ii. The proposed date of commencement of construction;
- iii. The anticipated date of completion of construction;
- iv. The height above ground level of the tallest part of the structure;
- v. The maximum extension height of any construction equipment;
- vi. Details of aviation warning lighting fitted to the structure.

Reason: In the interests of air safety.

4. No development shall commence until a plan and elevation showing details of the guy supports fitted with clearly marked bird deflector tags are submitted to and approved in writing by the planning authority. For the avoidance of doubt, the bird deflectors should be sufficient to ensure that all species of birds are adequately protected from bird strike. The bird deflectors as approved shall be attached to the guyed supports immediately following erection of the mast and shall be retained in place throughout the duration of the permission hereby granted.

Reason: In order to minimise the risk of birds colliding with the guyed supports of the anemometry mast.

5. Where ground conditions specifically require it, the mast may be micro-sited within the application site boundary as shown by the red circle on the site location plan (1:2500). However, unless otherwise approved in writing by the planning authority, micro-siting is subject to the following restrictions:

- i. No foundation or anchoring point shall be positioned higher, when measured in metres above Ordinance Datum, than the position shown on the original approved plans;
- ii. The mast shall not be moved:
  - a. More than 25 metres from the position shown on the original approved plans;
  - b. So as to be located within 250 metres (for mast foundations) or 150 metres (for hardstanding, tracks or trenches) of Groundwater-dependent Terrestrial Ecosystems;
  - c. To a position within 50 metres of any watercourse;
  - d. To a position within an area of deep peat (that is peat with a depth of 1.5 metres or greater) or having a peat landslide hazard risk of 'significant' or greater.

Reason: To enable appropriate micro-siting within the site to enable the developer to respond to site-specific ground conditions.

6. On completion of the mast, and before it becomes operational, it shall be fitted with a minimum intensity 25 candela omni- directional flashing red light or equivalent infra-red light fitted at the highest practicable point of the structure.

Reason: In the interests of air safety.

### Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).