

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE

11 April 2017

Agenda Item	7.2
Report No	

**16/00019/REFLO (formerly 14/04782/FUL): RES UK & Ireland Ltd
Culachy Estate, Land 6KM SE Of Newtown Invergarry**

Joint report by Area Planning Manager – South/Major Developments & Head of Corporate Governance

SUMMARY

Description: Update on planning appeal - Erection of 13 wind turbines with 12 up to 149.5 m tip-height and 1 up to 132 m tip height including ancillary development (Culachy Wind Farm)

Recommendation: RATIFY DECISION TAKEN UNDER DELEGATED POWERS

Ward: 13 – Aird and Loch Ness

Development category: Major

Reason referred to Committee: Manager's discretion

1. PROPOSED DEVELOPMENT

1.1 The Applicant proposes the erection of 13 wind turbines with 12 up to 149.5 m tip-height and 1 up to 132 m tip height including ancillary development at Culachy Estate, Land 6Km South East Of Newtown, Invergarry. The South Planning Applications Committee refused planning permission for the proposed development at its meeting held on 14 December 2015.

1.2 The reasons given by the Committee in refusing the application were:

1. With regard to impact on cultural heritage, the development would have an unacceptable significant adverse impact on the setting of the Corrieyairack Pass, a Scheduled Monument, and on the experience and appreciation of the users of this Pass, and as such is contrary to Policies 28, 57 and 67 of the Highland-wide Local Development Plan (HwLDP).
2. With regard to visual impact, the development is contrary to Policy 67 of the HwLDP due to its unacceptable individual and cumulative visual impact, when viewed by recreational users of the Corrieyairack Pass, the Great Glen Way and the higher ground to the north of the site.

2. APPEAL OF DECISION

- 2.1 The Applicant has appealed the Committee's decision. On receipt of an appeal the Council is required to submit a response, known as a Planning Authority Response Form ("PARF"), to the Scottish Government's Planning and Environmental Appeals Division. Preparing a PARF offers an opportunity to consider how reasons for refusal provided at Committee will be defended at Inquiry. The Council's Scheme of Delegation, confers delegated authority to the Head of Corporate Governance, and practising solicitors authorised by him, the power/duty to defend or appear or to instruct a defence or appearance in legal or other proceedings brought against the Council. That power is broad enough to encompass all matters concerned in a public inquiry. Further, under that part of the Scheme concerning Appeals, Reviews, Inquiries, the power is delegated to the Head of Planning and Building Standards, Development Management Team Leaders and Planning Officers to act on behalf of and represent the views of the Council in any appeal proceedings, hearings, inquiries or following the call-in of an application by Scottish Ministers.
- 2.2 In considering Committee's reasons for refusal in this appeal it was considered that the use of the word 'setting' in the context of the first reason for refusal related to a more generic use of the word meaning 'within the environment/surroundings' as opposed to any technical use of the term in respect of environmental impact or historic environment assessment. In brief, it would be the visual impact of the development that would have an unacceptable impact on the experience and appreciation of the Corrieyairack Pass. It is the visual experience of the environment surrounding the Pass, and therefore, by association, the appreciation of the Pass that will be adversely affected by the development.
- 2.3 In considering the second reason for refusal, officers were of the view that this reason was not 'narrowly drawn' by Committee. Rather, Committee was deliberately clear that the issue of concern is the visual impact of the development when viewed from a substantial area around Loch Ness; an area that is important to recreational users whether local residents or visitors. To this end, the second reason for refusal should be expanded to include visual impacts on those travelling routes into the Great Glen, particularly the A87. It is considered that when considering the visual impacts Policies 28 and 57 of the Highland wide Local Development Plan remain relevant and should also apply to the second reason for refusal.
- 2.4 This position has been taken forward into the Council's Inquiry and Hearing Statements lodged in support of its PARF.

3. NEXT STEPS

- 3.1 The appeal and the defence of the Committee's decision to refuse planning permission will be heard at Inquiry and Hearing Sessions to be held in Fort Augustus on 25-28 Apr and 1-2 May 2017 by a Reporter appointed by the Scottish Government to determine the appeal.
- 3.2 Notwithstanding that the Scheme of Delegation confers the delegated authority

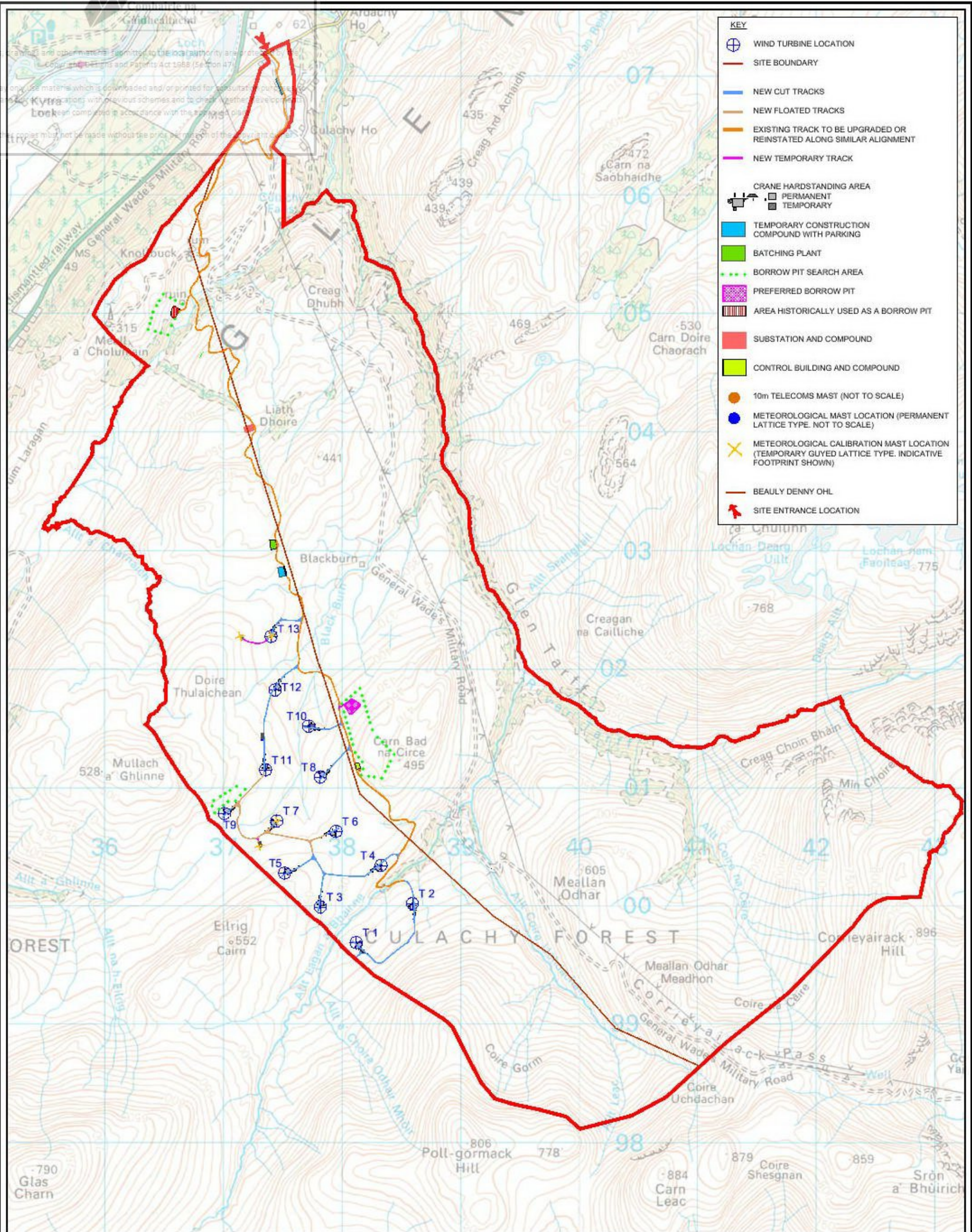
referred to above, it is considered judicious to ask Committee to formally ratify the delegated decision to amend the Committee's reasons for refusal in order that, if challenged, the Reporter can be directed to this report and the minute of the Committee's decision.

4. RECOMMENDATION

It is recommended that the Committee ratify the amendment of the reasons for refusal taken under delegated powers.

Signature: Nicola Drummond/Stewart Fraser
Designation: Area Planning Manager – South/Major Developments/Head of Corporate Governance
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Background Papers: PARF, Inquiry and Hearing Statements all available online at: <http://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=117338>
Relevant Plans: Site Layout Plan (Infrastructure) Fig 2.1 from Environmental Statement

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KEY

- WIND TURBINE LOCATION
- SITE BOUNDARY
- NEW CUT TRACKS
- NEW FLOATED TRACKS
- EXISTING TRACK TO BE UPGRADED OR REINSTATED ALONG SIMILAR ALIGNMENT
- NEW TEMPORARY TRACK
- CRANE HARDSTANDING AREA
- PERMANENT
- TEMPORARY
- TEMPORARY CONSTRUCTION COMPOUND WITH PARKING
- BATCHING PLANT
- BORROW PIT SEARCH AREA
- PREFERRED BORROW PIT
- AREA HISTORICALLY USED AS A BORROW PIT
- SUBSTATION AND COMPOUND
- CONTROL BUILDING AND COMPOUND
- 10m TELECOMS MAST (NOT TO SCALE)
- METEOROLOGICAL MAST LOCATION (PERMANENT LATTICE TYPE, NOT TO SCALE)
- METEOROLOGICAL CALIBRATION MAST LOCATION (TEMPORARY GUYED LATTICE TYPE, INDICATIVE FOOTPRINT SHOWN)
- BEAULY DENNY OHL
- SITE ENTRANCE LOCATION



CULACHY WIND FARM
FIGURE 2.1
INFRASTRUCTURE LAYOUT

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LAYOUT DWG: N/A	LAYOUT NO.: N/A
SCALE: 1:30,000@A3	
ENVIRONMENTAL STATEMENT 2014	
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