

Agenda Item	5.2
Report No	PLN/003/23

HIGHLAND COUNCIL

SUPPLEMENTARY REPORT

Committee: North Planning Applications Committee
Date: 25 January 2023
Report Title: 22/02717/S36: Energiekontor UK Ltd
Land 1700M SW of Oape, Ardgay

Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Application for section 36 consent for the proposed Strath Oykel Wind Farm and battery storage, 11 wind turbines of up to 200 metres and associated infrastructure.

Ward: 01 - North, West And Central Sutherland

Development category: Section 36 Application

Recommendation

It is recommended that the Council Raise no Objection to the application as set out in section 6 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The Highland Council has been provided with an opportunity to provide additional comments on an application made under Section 36 of the Electricity Act 1989 (as amended) for the construction and operation of the Strath Oykel Windfarm and associated infrastructure by the Scottish Government's Energy Consents Unit (ECU) following the publication of the Revised Draft National Planning Framework 4 by Scottish Government. The ECU have set out:

“As a party who previously provided a consultation response, prior to the NPF4 being laid, the Scottish Government would like to give you the opportunity to provide further comments on NPF4. There is no need to repeat comments previously provided.”

This report provides consideration of the proposed development on the context of the Revised Draft National Planning Framework 4 as it relates to this application. It should however be noted that subsequent to the consultation the Revised Draft National Planning Framework 4 was approved by the Scottish Parliament on 11 January and it will be adopted as part of the development plan in the coming weeks following the relevant provisions of the Planning (Scotland) Act 2019 being enacted.

- 1.2 Further to the opportunity provided to make comment on the contents of Revised Draft National Planning Framework 4, the Scottish Government has also published the Onshore Wind Energy Policy Statement and a draft Scottish Energy Strategy and Just Transition Plan. Given the inter-relationship of National Planning Framework 4 and these documents, it is considered appropriate to also provide comment on those documents in any response provided.

2. Revised Draft National Planning Framework 4

- 2.1 National Planning Framework 4 will supersede Scottish Planning Policy very soon and form a fundamental part of the Development Plan. Draft National Planning Framework 4 was published in November 2021 with the subsequent revised draft laid before the Scottish Parliament on 08 November 2022. In its newest iteration, draft NPF4 comprises three parts, summarised below:

- Part 1 – sets out an overarching spatial strategy for Scotland in the future. This includes spatial principles, national and regional spatial priorities, and action areas.
- Part 2 – sets out policies for the development and use of land that are to be applied in the preparation of local development plans; local place plans; masterplans and briefs; and for determining the range of planning consents. This part of the document should be taken as a whole in that all relevant policies should be applied to each application.
- Part 3 – provides a series of annexes that provide the rationale for the strategies and policies of NPF4, which outline how the document should be used, and set out how the Scottish Government will implement the strategies and policies contained in the document.

- 2.2 The Spatial Strategy sets out that we are facing unprecedented challenges and that we need to reduce greenhouse gas emissions and embrace and deliver radical change so we can tackle and adapt to climate change, restore biodiversity loss, improve health and wellbeing, build a wellbeing economy while striving to create great places. Therefore, NPF4 sets out that choices need to be made about how we can make sustainable use of our natural assets in a way that benefits communities. In this regard, it is noted that one of the six overarching spatial principles is “Just transition” – empowering people to shape their places and ensure that transition to net zero is fair and inclusive. Further the stated application of all six spatial principles is to achieve sustainable development (page 4), which was a very clear theme of SPP
- 2.3 The spatial strategy reflects existing legislation in setting out that decision making requires to reflect the long term public interest. However, in doing so, it is clear that we will need to make the right choices about where development should be located ensuring clarity is provided over the types of infrastructure that need to be provided and the assets that should be protected to ensure they continue to benefit future generations. To that end, the Spatial Priorities support the planning and delivery of sustainable places, where we reduce emissions, restore and better connect biodiversity; create liveable places, where we can all live better, healthier lives; and, create productive places, where we have a greener, fairer and more inclusive wellbeing economy.
- 2.4 It is anticipated that national developments, which include Strategic Renewable Electricity Generation developments of over 50MW such as that proposed through the application, will assist in the delivery of the Spatial Strategy and Spatial Priorities for the north of Scotland. The Spatial Strategy considers that Highland can continue to make a strong contribution toward meeting our ambition for net zero. It considers that the strategy for Highland aims to protect environmental assets as well as to stimulate investment in natural and engineered solutions to climate change (page 26). This aim, which may clearly require a balancing exercise, is not new and is reflected throughout the document.
- 2.5 Specific to this proposal, as well as the support in Policy 1 (significant weight will be given to the global climate and nature crisis when considering development), Policy 11 of draft NPF4 supports all forms of proposals for renewable, low-carbon and zero emission technologies including wind farms.
- 2.6 However, any project identified as a national development requires to be considered at a project level to ensure all statutory tests are met, as set out in Annex 1 of the draft NPF4. This includes consideration against the provisions of the Development Plan, of which National Planning Framework 4 is a part.
- 2.7 The policies in the revised draft NPF4 most relevant to this proposal include:
- Policy 1 – Tackling the climate and nature crisis
 - Policy 2 – Climate mitigation and adaptation
 - Policy 3 – Biodiversity
 - Policy 4 – Natural places

- Policy 5 – Soils
- Policy 7 – Historic assets and places
- Policy 11 – Energy
- Policy 22 – Flood risk and water management
- Policy 23 – Health and safety
- Policy 25 – Community wealth benefits
- Policy 33 – Minerals

- 2.8 It is not intended to give detailed consideration of all of the above policies in this Statement, but those set out above are those considered most pertinent for the Reporter, and ultimately Scottish Ministers, to consider for this proposal. The weight to be given to each individual policy and consideration is a matter for the decision maker.
- 2.9 Draft Revised NPF4 states that development proposals for wind farms should only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities, as set out in Policy 11 c). The policy goes on to state that significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets, similar to the existing provisions of Scottish Planning Policy and as illustrated in very many appeal and s.36 application decisions, while identifying impacts, including cumulative impacts, that must be suitably addressed and mitigated against i.e. That significant weight should be given to such targets etc. is consistent with the approach taken by the Planning Authority). These considerations are not a policy test and relate to matters of: impacts on communities and individual dwellings in relation to amenity; landscape and visual impact; public access; aviation and defence interests; telecommunications; traffic; historic environment; biodiversity (including birds); impacts on trees; decommissioning; site restoration; and cumulative effects.
- 2.10 In Policy 11e) ii. in relation to landscape and visual impacts it advises that where impacts are localised and / or appropriate design mitigation has been applied such effects will generally be considered acceptable. As set out in the original Report on Handling Reported to North Planning Applications Committee in October 2022, officers considered that while there would be some significant landscape and visual effects and that appropriate design mitigation had been applied to allow the significant effects identified to be considered acceptable. Members, however considered that the visual effects were not acceptable. It is noted that the concept of windfarms which only have localised impacts as being more likely to be acceptable is not new and is also reflected in many decisions. Draft NPF4 now reflects that in terms but still requires judgment to be applied.
- 2.11 Policy 4 (Natural Places) sets out that development proposals for onshore wind energy, by virtue of type, location or scale that have an unacceptable impact on the natural environment will not be supported. This again reflects existing policy.

3. Onshore Wind Energy Policy Statement (2022) and Draft Energy Strategy and Just Transition Plan (2023)

- 3.1 The Onshore Wind Energy Policy Statement supersedes the previously adopted Onshore Wind Energy Policy Statement which was published in 2017. The document sets out a clear ambition for onshore wind in Scotland and for the first time sets a national target for a minimum level of installed capacity for onshore wind energy, 20GW. This is set against a currently installed capacity of 8.7GW. Therefore a further 11.3GW of onshore wind requires to be installed to meet the target. It is however acknowledged that targets are not caps. In delivering such a target Scotland would play a significant role in meeting the requirement of 25-30GW of installed capacity across the UK identified by the Climate Change Committee
- 3.2 To deliver the ambition, a sector deal for onshore wind energy is being progressed. The detail of this is yet to be published.
- 3.3 Like the previous iteration of the Onshore Wind Energy Policy Statement, the document recognises that balance is required and that no one technology can allow Scotland to reach its net zero targets. The document is clear that in achieving a balance, environmental and economic benefits to Scotland must be maximised. In taking this approach, this echoes Scotland's Third Land Use Strategy
- 3.4 The document recognises that there may be a need to develop onshore wind energy development on peat. While peatland is present on the site, it is considered that appropriate mitigation has been applied by design and peat management can be secured by condition.
- 3.5 Benefits to rural areas, such as provision of jobs and opportunities to restore and protect natural habitats, are also highlighted in the document. The proposed development does lead to such benefits being delivered, however the scale of the benefits are not demonstrably greater than those one would expect on any such wind farm development of commensurate size prior to the advent of NPF4.
- 3.6 In relation to the impact of onshore wind in relation to landscape and visual amenity, the document sets out that to achieve the climate targets, and the ambition for the minimum installed capacity of 20GW by 2030, that the landscape will change. It however sets out that the right development happens in the right place.
- 3.7 Echoing the Revised Draft NPF4, the document sets out that significant landscape and visual impacts are to be expected that where the impacts are localised and / or appropriate mitigation has been applied the effects will be considered acceptable.
- 3.8 The role of Landscape Sensitivity Appraisals in considering wind energy proposals is promoted through the document. It is however noted that there is not an adopted Landscape Sensitivity Appraisal for the area subject to this application.

- 3.9 Finally, the document considers some of the wider benefits and challenges faced by in delivery of ambition and vision for onshore wind energy in Scotland. These include shared ownership, community benefit, supply chain benefits, skills development and financial mechanisms for delivery. Technical considerations are also highlighted, those relevant to this application have been considered and mitigation, where required has been secured by condition.
- 3.10 The Draft Energy Strategy and Just Transition Plan has been published for consultation. Ministers will likely give consideration to this document in their decision on the application, however limited weight can be applied to the document given its draft status. Unsurprisingly, the material on onshore wind in the document reflects in large part that contained in NPF4 and the Onshore Wind Energy Policy Statement 2022. Therefore, there is no further matters arising from the document to bring to the attention of Members in relation to this application.

4. CONCLUSION

- 4.1 In relation to the revised draft NPF4, the proposed development has, in principle support as a national scale development but requires a balancing exercise to be undertaken once all matters have been considered. This in principle support is a key change since the determination of the response to the ECU. As is the change in weight in national planning policy to be afforded to the climate emergency and nature crisis.
- 4.2 The Onshore Wind Energy Policy Statement sets ambitious targets for the delivery of onshore wind energy development to help address the climate emergency and facilitate Scotland's path to net zero. It does however make it clear that the principle of the right development, in the right place, in so far as it relates to onshore wind energy development, is still in place in national policy and that a balance requires to be struck between onshore wind energy, other competing land uses and environmental impacts.
- 4.3 It is the view of officers, that in considering the balance of the adverse effects of the development, against its benefits toward energy targets and to addressing the climate emergency, that the proposal should be supported subject to the conditions attached to the report which was presented to Members in October 2022.

5. IMPLICATIONS

- 5.1 Resource: Not applicable
- 5.2 Legal: If Members continue to raise an objection to the proposal, the application will be subject to a Public Local Inquiry. Further if the Scottish Ministers chose not to give effect to the conditional raise no objection, then it would also likely be subject to a Public Local Inquiry.
- 5.3 Community (Equality, Poverty and Rural): Not applicable
- 5.4 Climate Change/Carbon Clever: The proposal has the ability to make a meaningful contribution toward the production of renewable energy.

5.5 Risk: Not applicable

5.6 Gaelic: Not applicable

6. **RECOMMENDATION**

Subject to the above, it is recommended to **RAISE NO OBJECTION**, to the application, subject to the conditions and reasons set out in the report to North Planning Applications Committee in October 2022.

Signature: Dafydd Jones

Designation: Area Planning Manager - North

Author: Simon Hindson

Background Papers: Documents referred to in report and in case file.
