Agenda Item	6.4
Report No	PLS-55-24

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 01 October 2024

Report Title: 24/02371/FUL: RES (Renewable Energy Systems Limited)

Land 3100M SW of Kingie Lodge, Invergarry

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Construction and erection of a meteorological mast, height up to 70m,

for a temporary period of three years.

Ward: 11 – Caol and Mallaig

Development category: Local

Reason referred to Committee: Community Council Objection

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks full planning permission for the construction and erection of a meteorological mast (including instruments), 70 metres in height, for a temporary period of three years from the date the mast is erected. The mast is proposed to be erected within one year of any planning permission being granted.
- 1.2 The site of the proposed development is on open moorland in a remote area approximately 3.1km southwest of Kingie Lodge, Invergarry. The proposed mast is intended to provide meteorological data for a prospective wind farm site. The mast would be dismantled and site restored to its former condition after this three year period.
- 1.3 The site is accessed north along existing forestry track, taken from the A87 at the entrance to Glen Garry Forest, approximately 2.9km west of Invergarry. The existing track is taken through commercial forestry found south of Loch Garry and the River Garry for approximately 22km. A new ATV access, approximately 70m in length, taken from the existing track across moorland to the mast site is proposed, though, this will not entail the construction of a permanent access track.
- 1.4 Pre-Application Consultation: N/A
- 1.5 Supporting Information: Supporting Statement, Construction Access Plan, Met Mast Proposed Delivery Access Route.
- 1.6 Variations: None.

2. SITE DESCRIPTION

- 2.1 The proposed siting of the mast is on land comprising open moorland, to the west-southwest of rising land (Beinn Bheag), which is reached by taking an existing track through commercial forestry. The siting is in a remote area surrounded by a series of mountain ranges to the south, and further beyond nearby Loch Quoich to the north. Close to the site, there is little to no manmade development, except for the forestry track running to the south of the site through forestry plantation. Loch Quoich, which is northwest of the site, is a large, remote body of water which feeds into the Loch Quoich Dam (B-listed). A series of power lines and pylons run to the north of the loch. There are no residential properties within proximity of the proposed mast site.
- 2.2 The site lies within the Moidart, Morar and Glen Shiel Special Landscape Area. A Site of Special Scientific Interest and a Special Protection Area are located in close proximity to the site (SSSI and SPA West Inverness-shire Lochs black-throated diver and common scoter). The proposed development is located within an area classified as Remote Rural (Urban Rural Classification, 2020).

3. PLANNING HISTORY

3.1 None.

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour 14 Days

Date Advertised: 27.06.2024

Representation deadline: 11.07.2024

Timeous representations: 1

Late representations: 0

- 4.2 Material considerations raised are summarised as follows:
 - a) Potential for significant impact on SSSI and SPA (Common Scoter and Black-throated Diver)
 - b) Potential danger from proposed development to protected species (risk of collision between protected species and proposed development's mast and guy lines)
 - c) Strongly recommends bird survey work and further mitigation (markers and lights)
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 **Glengarry Community Council:** The Community Council objects to the proposals on the following grounds:
 - The proposed meteorological mast is within a Special Landscape Area;
 - It is adjacent to and surrounded by Wild Land Areas;
 - It has remote access difficulties, potentially requiring road and track building to construct, maintain and dismantle;
 - It will have a detrimental effect on the landscape.

"A further material matter is that the meteorological mast is intended to investigate for a prospective wind farm, which appears to be contrary to the Onshore Wind Energy Supplementary Guidance issued by The Highland Council. In that, the guidance states the 'setting of Loch Garry has no scope for medium or large scale turbines development'. And this wind farm scheme is closer to the wild land and national scenic areas than Loch Garry."

- NatureScot advise this proposal could be progressed with appropriate mitigation. However, because it could affect internationally important natural heritage interests, NatureScot object to this proposal unless it is made subject to conditions so that the works are done strictly in accordance with the mitigation detailed in their appraisal.
- 5.3 **MOD:** The proposed site lies within a Tactical Training Area where low level flight training is conducted. To address this impact, and given the location and scale of the development, the MOD require conditions are added to any consent issued requiring that the development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately charted to allow

deconfliction. As a minimum the MOD would require that the meteorological mast is fitted with infra-red (IR) lighting. Subject to the conditions stipulated in Appendix A of the consultation response dated 11.7.24, the MOD has no objections to the development.

5.4 **NATS:** The consultee has no safeguarding objection to the proposal.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 National Planning Framework 4 (2023) (NPF4)

- Policy 1 Tackling the Climate and Nature Crises
- Policy 2 Climate Mitigation and Adaptation
- Policy 3 Biodiversity
- Policy 4 Natural Places
- Policy 5 Soils
- Policy 6 Forestry, Woodland and Trees
- Policy 11 Energy
- Policy 14 Design Quality and Place
- Policy 29 Rural Development

6.2 Highland-wide Local Development Plan 2012 (HwLDP)

- 28 Sustainable Design
- 29 Design Quality and Place-making
- 36 Development in the Wider Countryside
- 51 Trees and Development
- 52 Principle of Development in Woodland
- 55 Peat and Soils
- 57 Natural, Built and Cultural Heritage
- 58 Protected Species
- 59 Other important Species
- 60 Other Importance Habitats
- 61 Landscape
- 67 Renewable Energy Developments

6.3 West Highland and Islands Local Development Plan (2019) (WestPlan)

No specific policies apply.

6.4 Highland Council Supplementary Planning Policy Guidance

Highland's Statutorily Protected Species (March 2013)

Highland Renewable Energy Strategy and Planning Guidelines (May 2006)

Onshore Wind Energy: Interim Supplementary Guidance (March 2012)

Special Landscape Area Citations (June 2011)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

National Planning Framework 4 (2023)

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
 - a) compliance with the development plan and other planning policy
 - b) design and siting
 - c) landscape character and visual impact
 - d) impact on SSSI and SPA
 - e) impact of development and access on important peatland
 - f) any other material considerations

Development plan/other planning policy

- 8.4 NPF4 Policies 1-3, require development proposals to consider the global climate and nature crises, ensure that they are so designed to minimise their environmental impact and protect, and enhance, biodiversity.
- 8.5 NPF4 Policy 11 Energy supports all forms of renewable energy development, onshore and offshore. The proposed meteorological mast is being constructed and would stand in place for a temporary period of three years to allow meteorological data to be gathered, which will assist in determining if the area has suitable characteristics to host a possible wind farm development.
- 8.6 It is important to emphasise at this stage that that this assessment is concerned with this specific proposal and is separate from any potential wind farm application which, if submitted in the future, would be assessed wholly on its own merits. Support for this application is not an indication that any future application relating to wind energy generation would also be supported.
- 8.7 Other relevant policies relating to the proposed development Policy 4 Natural Places and 5 Soils

8.8 The principle of the development broadly accords with development plan policy and subject to adequately addressing a number of key considerations may be capable of being supported.

Design and Siting

- 8.9 The proposed meteorological mast is tubular pole design, 70 metres in height. The mast requires guy wires extending from the pole at various heights to the ground to achieve stability. The pole would be anchored into the ground. The development does not propose a compound for the mast, and access or set down areas near to the mast site will be temporary and for the period of construction only.
- 8.10 The height and scale of the mast is significant for the setting, however, as the mast is of a slim, tubular design, it is judged that it will not have an unacceptable visual impact at this location. The proposed mast will have a slender silhouette, which is considered to help to lessen its visual impact. Guy wires, which are necessary for the stability of the mast, will be somewhat visible but less so than the mast but do not raise concerns from a design perspective.

Landscape character and visual impact

- 8.11 The mast site lies with the Moidart, Morar and Glen Shiel Special Landscape Area (SLA). The landscape in the wider area near the site possesses an extensive stretch of remote mountains, with upland moorland and interspersed with large bodies of inland water (Loch Quoich; Loch Garry, Loch Poulary). An expanse of commercial forestry is found to the south of where these water bodies are located, which is where existing track access will be taken to reach moorland at the proposed site. Dispersed residential properties are sited around this remote area west of Invergarry but these are found generally along single-track roads running parallel with or off Loch Garry, with no dwellinghouses near the site. It is judged that the proposed development will not have a significant impact on the landscape qualities of the SLA. The site does not lie within the wild land areas.
- 8.12 In terms of visual impact, the proposed structure could be viewed from localised distances, and distances of up to 5km from viewpoints to the northwest, southeast and southwest. However, as the area is highly remote, those viewing the mast would be fairly small in number. In addition, rising land immediately to the east and the mountain ranges running to the south would offer screening and obscure the mast almost in its entirety from longer distances. Due to the design of the mast, its appearance will diminish as the distance increases.
- 8.13 Overall, considering the acceptability of the siting, the temporary nature of the development, and the low incidence of visual receptors in the area, the mast's potential for more significant visual impact locally and minor impacts at greater distances can be accepted.

Impact on SSSI and SPA

8.14 As per NFP4 Policy 4 Natural Places, the possible impacts of the proposed development on designations found at the site is considered. Development proposals will only be supported where the development will not have significant

adverse effects on the integrity of the area or the qualities for which it has been identified, or; any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance (Policy 4 b) and c) respectively).

- 8.15 The site lies within close proximity of the West Inverness-shire Lochs Special Protection Area (SPA) and the West Inverness-shire Lochs Site of Special Scientific Interest (SSSI). These relate to protected bird species (Common Scoter and Black-throated Diver). A letter of representation was received from RSPB on this topic. Advice was sought from NatureScot. Following assessment of the potential impacts, mitigation is recommended in the form of bird flight deflectors to be fitted to all meteorological mast guy wires at 5m intervals. This is discussed in more detail in Appendix 2 and the mitigation can be secured by condition.
- 8.16 With this mitigation in place, it is considered the proposal will not adversely affect the integrity of the SPA (and SSSI).

Impact of development and access on important peatland

8.17 Access arrangements proposed for this development are assessed for their potential to have adverse impacts. Class 2 (Nationally important) peatland is found at the site of the mast and some of the land where ATV access will be taken of the existing forestry track. NPF4 Policy 5 requires that the mitigation hierarchy is applied where important peatland is found on site. No permanent access is proposed as part of this application, and where construction access is taken from road away from existing track for 70m, ATV vehicles will be used. From the additional information submitted, which also outlines the potential frequency of journeys made to the mast site (see below), it is considered that the construction methods and access arrangements will not entail permanent disturbance to peatland.

Access

8.18 It is anticipated the mast will take five days to install and thereafter the site will be accessed once a year for annual inspection. A Construction Access Management Plan has been submitted in support of the application which demonstrates a low level of traffic associated with the installation of the mast over a five day period. Temporary access arrangements, which will see ATV taken across the moorland from a temporary set down area at the end of existing access, are considered acceptable, and preferable to permanent access.

Other material considerations

8.19 There are no other material considerations.

Non-material considerations

8.20 Issues relating to a potential future wind farm on this site are not material to this current application. Any potential applications relating to a wind farm development would be subject to a separate planning application and assessment.

Matters to be secured by Legal Agreement / Upfront Payment

8.21 None.

9. CONCLUSION

- 9.1 The application is for the mast to be erected for a three year period before being dismantled and the site restored. Given the design and temporary nature of the proposed development it is considered the proposed meteorological mast can be well accommodated in this location for this short period for its intended purpose (data gathering). Subject to appropriate mitigation, the proposal will not have a significant adverse impact on the area in the long term.
- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.5 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Revocation of previous permission N

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons

1. The development to which this planning permission relates must commence within ONE YEAR of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) and in recognition of the temporary nature of the development as set out in application.

Planning permission is hereby granted for a temporary period only and, if commenced in accordance with Condition 1 above, shall endure for a period of THREE years from the date of commencement. Prior to the end of the three year period the application site shall be cleared of all development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings and any temporary developments permitted under Class 14 of the Town and Country Planning (general Permitted Development) (Scotland) Order 1992 (as amended) and reinstated to a condition comparable with that of the adjoining undeveloped land, to the satisfaction of the Planning Authority.

Reason: In recognition of the temporary nature of the proposed development, to enable the Planning Authority to reassess the impact of the development after a given period of time and secure removal and restoration.

3. As part of the initial construction of the mast hereby approved, Bird flight deflectors are to be fitted to all meteorological mast guy wires at 5m intervals and thereafter retained in-situ for the duration of the mast being on site. Stops or clamps should be fitted to the guy wires to prevent the deflectors slipping down the wires. The mast should be inspected and maintained each year before April to ensure the deflectors remain in place.

Reason: In order to protect the qualifying interests of the Inverness-shore Lochs Special Protection Area.

4. Prior to commencing construction of any meteorological masts, or deploying any construction equipment or temporary structure(s) 15 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the approval of the Highland Council in conjunction with the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:

- details of any construction equipment and temporal structures with a total height of 15metres or greater (above ground level) that will be deployed during the construction of meteorological mast and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of all meteorological mast featured in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason: To maintain aviation safety.

- 5. The undertaker must notify the Planning Authority and the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:
 - a) the date of the commencement of the erection of the meteorological mast;
 - b) the maximum height of any construction equipment to be used in the erection of the meteorological mast;
 - c) the date the meteorological mast is brought into use;
 - d) the latitude and longitude and maximum heights of the meteorological mast.

The Planning Authority and the Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: To maintain aviation safety.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

INFORMATIVES

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: http://www.highland.gov.uk/yourenvironment/roadsandtransport

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads and pavements/101/permits for working on public roads/2

Mud and Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot: https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species

Signature: David Mudie

Designation: Area Planning Manager – South

Author: Helen Stevenson /Susan Macmillan

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

Relevant Plans: Plan 1 05019-RES-INS-DR-IN-001 REV 1 Elevations

Plan 2 05019-RES-LAY-DR-LE-010 REV 2 Site Layout Plan - Met

Mast Boundary

Plan 3 05019-RES-LAY-DR-XX-002 REV 1.1 Location Plan

Plan 4 05019-RES-ACC—DR-PE-003 REV 3 Site Access Plan

Appendix 2

CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES

The status of West Inverness-shire Lochs Special Protection Area (SPA) means that the requirements of the Conservation (Natural Habitats, & c.) Regulations 1994 as amended (the 'Habitats Regulations') or, for reserved matters the Conservation of Habitats and Species Regulations 2017 as amended apply.

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on those sites, it must undertake an Appropriate Assessment of the implications for the conservation interests for which the areas have been designated. The need for Appropriate Assessment extends to plans or projects out with the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- make an Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not have an adverse effect on the integrity of the sites. If this is not the case and there are not alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

Screening of Likely Significant Effects

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

The proposal is close to the West Inverness-shire Lochs Special Protection Area (SPA) which is protected for breeding black-throated divers and common scoter. West Inverness-shire Lochs SPA consists of Lochs Affric, Cluanie, Loyne (including Lochan Bad an Losguinn), Garry (including Loch Poulary), Lundie and Blair.

Taking account of advice received from NatureScot (8 August 2024) it is considered the proposal is **likely** to have a significant effect on the qualifying interests of the West Inverness-shire Lochs Special Protection Area and an **appropriate assessment IS required**.

APPROPRIATE ASSESSMENT

While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies. In this case, the Appropriate Assessment is informed by information supplied by NatureScot, the applicant and various published information.

The appraisal carried out by NatureScot considered the impact of the proposals on the following factors:

- While there is uncertainty in the route and timing of flights by birds into and out of the SPA, based on topography and probable flight energetics, we consider that the likelihood of birds colliding with the mast during their migratory flights into and out of the SPA is likely to be very low. This is because of its location, which is set back from the main river valley, and on the south side of and below the Beinn Bheag summit, and also because this is a relatively small, temporary structure.
- We also consider, due to the mast's location and what we know about bird behaviour during the breeding season, that collision risk to breeding birds is also likely to be very low.
- Due to the very small SPA population sizes any collision related mortality could however be significant. We therefore consider that, although the risk of collision is low, the use of bird flight diverters is required to make the guy wires more visible and mitigate any residual risk. For further advice on this mitigation measure, see: https://www.nature.scot/doc/guidance-assessment-and-mitigation-impacts-power-lines-and-guyed-meteorological-masts-birds.
- With this mitigation in place we consider that the conservation objectives for the site
 will be maintained, including the Population of the species as a viable component of
 the site and the Distribution of the species within site

Based on the information provided, if the proposal is carried out strictly in accordance with the following mitigation, the conclusion is that the proposal will not adversely affect the integrity of the site:

Bird flight deflectors are to be fitted to all meteorological mast guy wires at 5m intervals. Stops or clamps should be fitted to the guy wires to prevent the deflectors slipping down the wires. The mast should be inspected and maintained each year before April to ensure the deflectors remain in place.









