

GS/850/IK

Electricity Act 1989

Town and Country Planning (Scotland) Act 1997

Town and Country Planning (Appeals) (Scotland) Regulations 2008

DPEA Code of Conduct for s.36 Inquiries

OUTLINE STATEMENT OF CASE

(LVIA Inquiry Session and Policy Hearing Session)

for THE JOHN MUIR TRUST

for a Public Local Inquiry

into an application for a wind power station at Limekiln, Reay comprising of 24 turbines (15 at 139m high and 9 at 126m high) and associated facilities and tracks, all known as the Limekiln wind farm

DPEA Reference: WIN-270-1

THC Reference: 12/04781/S36

Submitted 14th July 2014

Background

1. In accordance with the paragraph 18 on the minute of the Pre-Inquiry Meeting issued by the DPEA on behalf of the Reporters Outline Inquiry and Hearing Statements of Case are required for the sessions in which it is intended to participate. They are to be followed by documents (that will include detailed Hearing Statements) and precognitions. The initial Statements are to be lodged on 14th July.
2. This is a combined Inquiry and Hearing Statement on behalf of the **John Muir Trust**.
3. The John Muir Trust, in line with the email submitted to the DPEA, now intends to take part in the Inquiry Session on LVIA issues and in the Hearing Session on Policy. This Outline Statement of Case covers **both** sessions. A report and precognition will be prepared for the Inquiry Session and a Detailed Hearing Statement will be prepared for the Hearing sessions. However, during the oral evidence the Trust will look to assist the Reporter by avoiding repetition of points already covered by others.

Basis for the Participation in the Inquiry

4. Based on the earlier stages of Wild Land mapping and with the policy provisions of SPP2 the Trust, having regard to its limited resources decided, on a very marginal call, not to submit representations at the earlier stages of this application. However, with the newly confirmed planning policy position, the Trust does now wish to advise Ministers of their updated view on the application and it is considered that participating in the Inquiry is a more efficient and effective way to do so rather than by just responding to SEI/FEI or by responding to a request from Ministers directly (as has happened with Glenmorie).
5. The Trust's case is that a new assessment of Wild Land effects, replacing ES Appendix 9E, is required for the proposed wind farm development at Limekiln, as a result of the release of National Planning Framework 3 (NPF3), and Scottish Planning Policy 2 (SPP2), alongside Scottish Natural Heritage (SNH)'s 2014 Wild Land Areas (WLAs) map and the associated Advice to the Scottish Government. Within that mapping Wild Land Area 39 is of major significance to this application.

6. In the event that a new assessment of Wild Land under the new planning context is not done, the objector's case is that the proposed development at Limekiln would significantly adversely impact on Wild Land Area 39, and that the Applicant's assessment of effects on wild land in the Environmental Statement and Appendix 9.E significantly underplays the impact the development would have. The developer made no adjustment to address SNH's concerns about "significant adverse landscape and visual impacts" only "some of which are capable of mitigation", according to SNH's letter of 31 July 2013.
7. It is also considered essential that the applicant, in a new Wild land assessment should address the current rate of loss of Wild Land and the cumulative effects of wind farms, in say a 60km radius, on the remaining Wild Land resource.
8. It is on this current, up to date basis that the Trust wishes to give evidence now at this Inquiry.

LVIA Inquiry Session

9. Until such times as a new Wild Land assessment has been produced and consulted upon it is difficult to be precise as to the scope of the evidence. However, setting that clear caveat aside for the moment the case on behalf of the Trust will probably address:
 - a. The Siting and design of the wind farm with particular reference to its size and scale and the scale of the receiving landscape. Reference will be made to the relevant SNH guidance, Search Areas for Wild Land (SAWLs) and Wild Land Area map of Area 39
 - b. Selection of Viewpoints and reference will be made to Applicants' visualisations
 - c. Cumulative effects on wider views
 - d. Visual (as well as cumulative and sequential cumulative visual) effects upon residents, recreational and business users of the hills, roads, estates and promoted paths within the vicinity of the proposed development site

- e. The ES assessment of wild land and methodology used to assess the sensitivity of receptors, the magnitude of effects and the consequential significance of effects. Reference will be made to current SNH and Landscape Institute guidance
 - f. The tourism and recreational benefits of Wild Land
 - g. The potential adverse effects on those benefits from the loss of Wild Land
10. The Trust's case will not address any detailed viewpoint by viewpoint assessment of landscape and visual effects. Nor will the Trust's case address considerations of impacts on residential amenity. The Trust will rest on the evidence of others in respect of those aspects.
11. In terms of documents the Trust will refer mainly to the existing Core Documents and the expected new Wild Land assessment. The Trust will not be commissioning any new LVIA material of its own for this Inquiry and the only additional documents envisaged by the Trust are:
- a. A response to the new Wild Land Assessment
 - b. A precognition of evidence
12. In terms of appearances, the Trust's evidence on this topic will be given by Ms Helen McDade, Head of Policy at the Trust. In order to assist the progress of the Inquiry Session her evidence will be led by Ian Kelly MRTPI (see below). The Trust will not have legal representation.
13. The Trust is content that sufficient time has been allocated for this Inquiry session and that the participation by the Trust will not add to the time set aside.

Policy Etc Hearing Session

14. It should be stressed that the Trust is participating in this Inquiry in terms of its fundamental interest in the protection of Wild Land. The Trust will, therefore, NOT be presenting a wide ranging Policy case that addresses all matters listed under this topic heading. The Trust fully expects the Council, as Planning Authority, and SNH to

undertake that aspect. The Trust would only become involved in the wider policy debate if there was any concern that the debate was seriously failing to adequately address any relevant policy matter.

15. Given the above, the policy case on behalf of the Trust will be focussed and will address:

- a. The core interest of the Trust in protecting Wild Land
- b. Current 2014 national planning policy on Wild Land
- c. Emerging national planning policy on Wild Land
- d. The assessment of the application, and its LVIA effects, in terms of planning policy for Wild Land, drawing on the Inquiry evidence and on the analysis of the same issue in the Dunbeath wind farm Inquiry report and decision
- e. The conclusion, based on the above, that the application should be rejected on account of being contrary to planning policy in respect of scheme specific and cumulative effects on Wild Land Area 39

16. In terms of documents it is anticipated that the bulk of the necessary planning policy documents will be Core Documents. However, the evidence will also refer to:

- a. A Hearing Statement setting out the detailed assessment of the above case elements (prepared by Ian Kelly MRTPI)
- b. The Trust's Wild Land Policy
 - a. The Trust's Energy and Wild Land Policy (2013)
 - b. The Trust's Built Development Policy (2013)
 - c. The Trust's Renewable Energy Policy (2004)
- d. The Dunbeath windfarm Inquiry Report (the reasoning and findings chapter only) and Decision Letter

17. An updated index of the Trust documents will be issued along with the documents themselves on the 28th July 2014.
18. In terms of appearances the Trust's evidence at the Hearing session will be given by Ian Kelly MRTPI, Head of Planning at Graham and Sibbald, and an experienced planning expert witness in relation to the assessment of wind farms. The Trust will not have legal representation.
19. The Trust is confident that sufficient time has been allocated for this topic as it is considered very likely that the Trust will simply be able to support much of the evidence that will be led on behalf of the Council and SNH.

Closing Submissions

20. The Trust would wish to have the opportunity to submit a written Closing Submission by the agreed due date one week after the end of the evidence.

[END]

Submitted 14th July 2014

On behalf of John Muir Trust

Ian Kelly MRTPI,

Head of Planning, Graham and Sibbald

Perth