

GS/Strathy South/JMT/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

CLOSING SUBMISSION

for THE JOHN MUIR TRUST

for a Public Local Inquiry in respect of the Strathy South S36 Wind Farm

DPEA Reference: WIN-270-2

THC Reference:

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Background

1. This Closing Submission in respect of the Inquiry into the S36 Electricity Act application for the proposed Strathy South wind farm is lodged on behalf of the John Muir Trust. The Closing Submission was delayed to allow further exchanges on matters relating to ornithology and peat (including the carbon balance calculation).
2. The Inquiry has taken a long time. It has provided time to see the reality of Strathy North and time for reflection. That reflection has not changed the basic position of the Trust that:
 - a. This proposal fundamentally fails the test in first sentence of para 170 in SPP2 in that it is an explicit part of the applicant's case that the site is expressly not suitable for use in perpetuity as a wind farm site
 - b. This land should have been Wild Land bar for the policy mistakes of the past that led to the unsuitable and unsustainable use of the land for commercial conifer forestry
 - c. Those policy mistakes should not be repeated with another misguided policy
 - d. Therefore, this wind farm is simply the wrong development in the wrong location and should be decisively rejected
 - e. There is a more sustainable and better future for both the local community and the Flow Country that does not depend on yet another wind farm
3. In addition, since the end of oral evidence the UK Government has announced its intentions to close the RO system early and the future of onshore wind within the CfDs is uncertain, to say the least. Therefore, onshore wind farms might well be yesterday's inefficient and expensive answer to yesterday's ill-defined and misunderstood problem. They are not the sustainable future.

The Approach to the Closing Submission

4. Some Closing Submissions are extensive documents, going over the case presented by all parties in tremendous detail. The Trust is of the view that such an approach almost

implies that the Reporter will not remember or have understood the evidence. Such an approach is unnecessary. All that is needed is to review the fundamentals and to restate the conclusions.

The Case for the Trust

5. The Trust gave evidence on landscape, Wild Land, economics, peat and planning policy. That evidence is commended to the Reporter. In addition, and despite some adverse commentary, the Trust does support the local people in trying to find a more sustainable future for their communities.

Ornithology

6. The Trust did not lead evidence on ornithology as it simply supported the position adopted by the RSPB. The Reporter will have heard and read extensive and conflicting evidence on the likely level of threat to protected species and on the likely effectiveness of mitigation strategies. Being blunt that evidence comes down to the differing views on the number of protected birds that will be killed, harmed or disturbed. Such adverse effects, at whatever level they are predicted, are not acceptable and the only way to be sure that they will not occur is to refuse consent for this proposed wind farm.
7. The Strathy North wind farm is now being commissioned. It provides an ideal opportunity for a genuinely independent monitoring and evaluation programme, over say the next ten years, examining exactly how many birds are killed, harmed or disturbed and evaluating the various ongoing HMP and CMP activities actually work or not. The Trust would endorse and commend such a research programme. But there is no need for two sites for the experiment. Strathy South is not needed.

Peat

8. As with ornithology the Reporter will have heard and read extensive conflicting evidence. Again the Trust considers that this aspect can be addressed simply. It is not conceivable that such extensive construction activities, as are planned, on this wet environment could be carried out without significant and probably permanent damage

to what is, after all, a living organism. Restoration, not destruction should be the prescribed approach.

Landscape and the Flow Country

9. Despite the considerable efforts of the RSPB this was one area where the evidence presented to the Reporter could have been much stronger and much more visionary. Take away the unsightly commercial conifer forests and there is a world class landscape and environment that is capable of being managed in a viable and sustainable way to the benefit of local people, visitors and the environment. The wind farm would be an utterly incongruous element in this landscape and it is not needed.
10. Conversely, to approve this wind farm would be a major retrograde step which might very well actually prevent rather than assist landscape and environmental restoration.

Community Benefit

11. Much was made of community benefit and the local community support for the project. As was clearly established in the questioning of the local representative during the Economics Hearing session the local people wanted the money from the wind farm (as they saw it) rather than wanting the wind farm. That desire for resources to invest in the sustainable development of the local communities (and that goes beyond multiple village halls) is fully understood.
12. However, the so called community benefit money is not a gift from SSE to the local communities. It is clearly a forced income transfer from one group of consumers (many of whom will be in fuel poverty) to another group of consumers with no proper accounting for all of the economic effects on both groups. It is not an equitable or sustainable form of community regeneration funding.
13. In contrast the Trust is committed to working with communities who live on or near Wild Land in order to show, beyond any possible doubt, that Wild Land and sustainable rural communities are not mutually exclusive concepts.

Overall Planning Policy Assessment and Conclusions

14. In reaching the overall conclusions in this Closing Submission, the approach has been to take into account the evidence on both the benefits of the scheme and the likely adverse impacts, or disbenefits of the scheme (the planning balance) and to take account the well documented planning history of wind farms in this wider area. As set out in the evidence, it is considered that the material benefits of the proposed wind farm scheme are only the limited economic benefits and those generic, assumed environmental benefits associated with wind energy generation. These generic benefits (which are now known to be only assumed benefits) are already factored into the favourable policy environment for this type of development and should not be counted twice.
15. In relation to the tests in the Electricity Act, it is not considered that these provide any valid basis for the *detailed* assessment of the acceptability of the scheme. However, they must be considered and they require a balance of benefits with adverse effects. Given the significant adverse landscape and visual impacts, including cumulative impacts, given the likely adverse impacts on valued local landscapes (including Wild Land and the NSA) and viewpoints which cannot be mitigated, and given the other potential adverse effects including the adverse effects on protected bird species and habitats, it is concluded that the applicant has neither preserved natural beauty and flora, nor secured reasonable mitigation. The Electricity Act Schedule 9 tests are not met.
16. In terms of the deemed planning permission aspects, the proposals have been assessed against the Development Plan always seeking to balance the identifiable scheme specific benefits in the equation.
17. Based on the evidence it is concluded that the proposed wind farm development is contrary to the Development Plan, principally on account of its significant adverse landscape and visual impacts, including adverse impacts on valued landscapes and viewpoints/routes that cannot be mitigated, on account of cumulative landscape and visual impacts and on account of the scheme specific and cumulative adverse impacts on Wild Land and the NSA. This range of significant adverse effects is not offset by

the limited economic benefits of the scheme or by the assumed generic environmental benefits of the scheme.

18. Therefore, the overall conclusion of the Trust is that the proposal is not in accordance with the Development Plan and that, therefore, the presumption is for the refusal of deemed planning permission for this wind farm s36 application.

19. It is, therefore, respectfully submitted that the Reporter and the Scottish Ministers should conclude, following this Public Local Inquiry, that the proposed Strathy South wind farm application should be refused s.36 consent as the Electricity Act tests are not met and that, in terms of the deemed planning permission aspect, deemed planning permission should be refused on the grounds that the proposal is not in accordance with the Development Plan.

[END]