
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(PLANNING OFFICER, DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: ERECTION OF TEMPORARY ANEMOMETER MAST, LAND 1400M SW OF BELBEC, DIRDHU, NETHY

REFERENCE: 2011/0317/DET

APPLICANT: NETHYBRIDGE COMMUNITY DEVELOPMENT COMPANY

DATE CALLED-IN: 14 OCTOBER 2011

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS

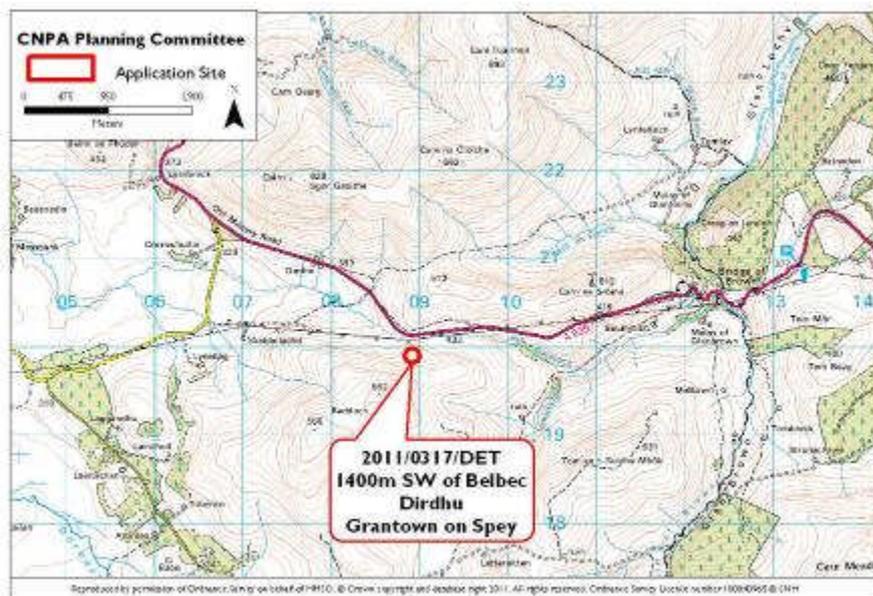


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site for this application is located to the south of the A939 between Grantown and Bridge of Brown. The mast is sited immediately south of a pylon line which runs from Boat of Garten to Tarland. This line is currently being removed as part of the mitigation for the Beauly to Denny pylon upgrade. The site is at approximately at the 450 metre contour.
2. The proposal is for a temporary anemometer mast measuring 50 metres in height attached to the ground by three stays (fig 2 below).

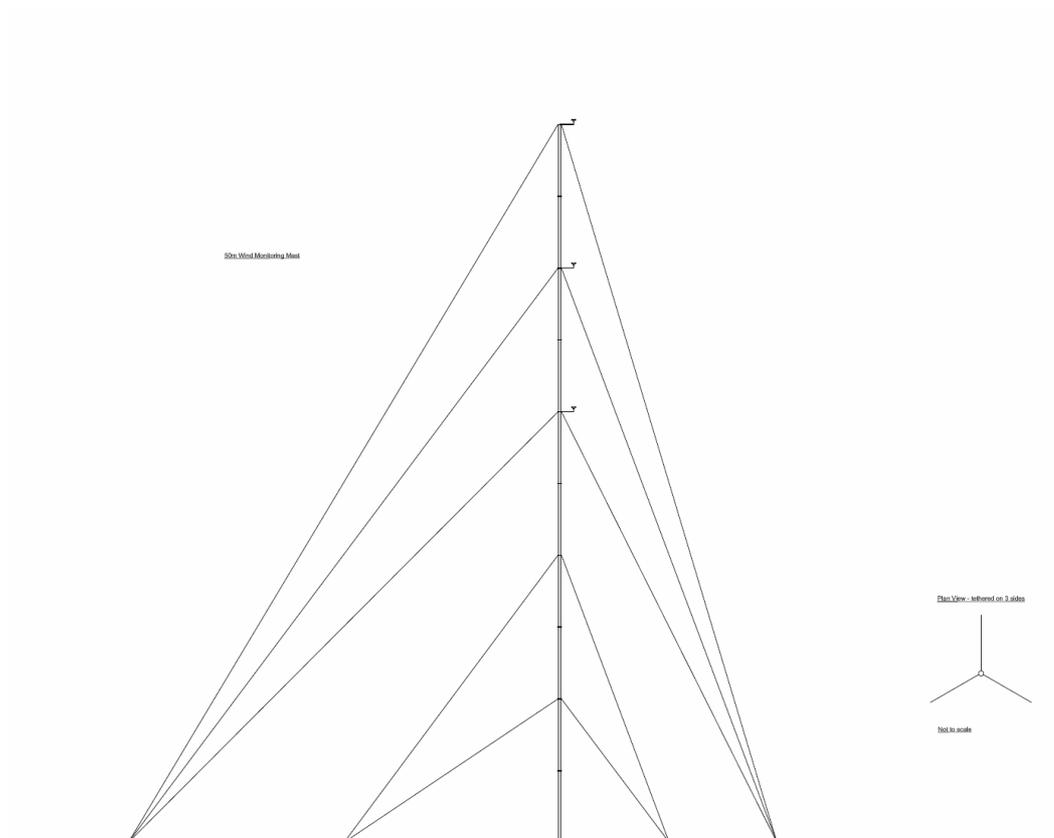


Figure.2- 50 metre high mast

3. The temporary period being sought for this application is for up to 3 years to allow a period of wind measurement. However, if an adequate run of data is achieved more quickly the mast can be removed sooner.
4. The mast would be assembled on site after being transported in sections to the site by means of an All Terrain Vehicle. This means that no access tracks are required.



Figure. 3- View of site from A939 (Granttown- Tomintoul) looking in Bridge of Brown direction.

DEVELOPMENT PLAN CONTEXT

National policy

5. **Scottish Planning Policy¹ (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
 - The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.

6. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government's central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is

¹ February 2010

advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.

7. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”
8. As a replacement for a variety of previous planning policy documents the new Scottish Planning Policy includes ‘subject policies’, of which many are applicable to the proposed development. Topics include rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
9. Rural development: Para. 92 of SPP states in relation to rural development that the “aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.” All new development is required to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.
10. Landscape and natural heritage: The Scottish Planning Policy document recognises the value and importance of Scotland’s landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
11. Renewable Energy: The document sets out the Scottish Government’s commitment to increase the amount of electricity generated from renewable resources as a vital part of the response to climate change. Paragraph 183 considers that there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning Authorities should support communities and small businesses in developing such initiatives in an environmentally acceptable way.
12. **Scottish Planning Policy** concludes with a section entitled ‘Outcomes’ in which it is stated that the “planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets.” Planning authorities are required to be clear about the standard of development that is required. Quality of place not

only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds.² Finally it is stated that the planning system should be “judged by the extent to which it maintains and creates places where people want to live, work and spend time.”

Cairngorms National Park Plan (2007)

13. The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of ‘conserving and enhancing the special qualities’ strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and enhances the character, pattern and local identity of the built and historic environment.
14. Under the heading of ‘Conserving and Enhancing’ Strategic Objectives seek to ensure that all management and development in the Park should seek to make the most sustainable use of natural resources, including energy and water. Under ‘Energy’ objectives seek to contribute to national targets for greater renewable energy production. Strategic objective b) under ‘Energy’ seeks to help communities, businesses and households to obtain the information, expertise and support they need to reduce energy consumption and increase renewable generation.

Structure Plan Policy

Highland Council Structure Plan (2001)

15. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –
 - Supporting the viability of communities;
 - Developing a prosperous and vibrant local economy; and
 - Safeguarding and enhancing the natural and built environment.A variety of detailed policies emanate from the principles.
16. The following provides a brief summary of the policies applicable to a development of this nature. **Policy NI – Nature Conservation** advises that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. The Plan refers to the socio-economic benefits of the nature conservation resource and advises that it should be optimised by a high level and standard of interpretation and understanding wherever possible.

² Para. 256.

17. The Structure Plan also includes a section on biodiversity, defining it as “natural richness and diversity of nature – the range of habitats and species and the uniqueness of each and every organism.” Biodiversity is not the same as natural heritage, but is one of the key functional components. As a key part of the natural heritage of an area it is important to protect, and where possible enhance biodiversity and to monitor any change.
18. Section 2.4 of the Plan concentrates on the subject of landscape, stating that “no other attribute of Highland arguably defines more the intrinsic character and nature of the area than its landscape.” Similar to national policy guidance, there is recognition that landscape is not a static feature and that the protection and enhancement of landscape and scenery must be positively addressed. **Policy L4 Landscape Character** states that “the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.”
19. **Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things make use of brownfield sites, existing buildings and recycled materials; are accessible by public transport, cycling and walking as well as car; are compatible with service provision; demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments; and contribute to the economic and social development of the community.
20. **Policy EI Distributed Renewable Energy Developments** considers that the Council supports the utilisation of the region’s distributed renewable energy resource, including hydro, wind, wave and tidal stream power.
21. **E2 Wind Energy Developments** considers that wind energy proposals will be supported provided that impacts are not shown to be significantly detrimental. Proposals will be assessed with regard to visual impact, noise, roads, bridges, traffic etc.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

22. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
23. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
 - Chapter 3 - Conserving and Enhancing the Park;
 - Chapter 4 - Living and Working in the Park;

- Chapter 5 - Enjoying and Understanding the Park.

24. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the current development proposal.
25. Policy 2- National Natural Heritage Designations: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.
26. Policy 4 Protected Species: development which would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers will be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.
27. Policy 5 – Biodiversity : development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted where:
- (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
 - (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.
28. Policy 6 – Landscape: there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be

made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.

29. Policy 15- Renewable Energy Generation : developments for small scale renewable energy schemes which support the aims of the National Park and the National Park Plan Strategic Objective regarding energy production, will be favourably considered where they contribute positively to the minimisation of climate change, and where they complement the sustainability credentials of development. Development, including any ancillary works. Will be sited and designed to have no significant adverse visual or landscape impact, including any cumulative impact, caused as a result of energy generation, transmission or distribution measures, and will not have any adverse impact on the amenity of neighbouring properties or any unacceptable impact on the environment
30. Policy 16- Design Standards for New Development : design of all development will seek where appropriate to: a) minimise effect on climate change; b) reflect and reinforce the traditional pattern and character of the surrounding area and reinforce the local vernacular and distinctiveness, whilst encouraging innovation in design and materials; c) use material and landscaping that will complement the setting of the development; d) demonstrate sustainable use of resources; e) enable storage and segregation of recyclable materials; f) reduce need to travel; g) protect neighbouring amenity; h) accord with Sustainable Design Guide.
31. The CNP Local Plan is the subject of an appeal under section 238 of the Town and Country Planning (Scotland) Act 1997 against the decision of the CNPA to adopt the CNP Local Plan 2010. The Appeal will be decided by the Court of Session and is a material consideration. Therefore, account has been taken of the Appeal in the determination and recommendation made in respect of this application.

CONSULTATIONS

32. **Scottish Natural Heritage** (SNH) comment that the site is 3.5 kilometres from the Cairngorms Massif Special Protection Area (SPA), designated for golden eagles. In SNH's view the proposal is likely to have a significant effect on the qualifying interest of the SPA, consequently, the CNPA is required to prepare an appropriate assessment. However if the proposal can be amended so that the anemometer mast is adapted strictly in accordance with the following condition then the significant effect can be avoided and an appropriate assessment would not be required
33. Bird Flight Diverters (BFD) should be attached to each stay at 5 metre intervals and secured in place to prevent them slipping down the wires. The BFD should be positioned at different locations on all the stays; the resulting bird diverter array will maximise the visibility of the mast and reduce the risk of collision. The BFD should be maintained and replaced as necessary for the life of the

anemometer mast. This will reduce the risk of collision by golden eagles (and waders).

34. SNH object to the proposal unless it is made subject to the above.
35. **CNPA Ecologist** has no objection but recommends that the mast should not be erected during the bird breeding season
36. **CNPA Landscape Officer:** The landscape and visual impact of the proposed anemometer mast as assessed in December 2011 (with the pylons still in place) is likely to be **slight and not significant**. However, the projected date for the removal of these pylons is not fixed but it will be before November 2014. Thus during the course of the 3 year permission, should it be granted, both the landscape and visual impact would increase to a level which is likely to be **moderate and significant** . In these circumstances the proposed wind mast would fail to complement and enhance the landscape character of the CNP and the setting of the development. It may be possible to reduce adverse landscape and visual effects on the setting by locating the mast away from the bealach. However, minor adjustments to positioning would be likely make little difference.
37. While not part of this application the understanding of the CNPA Landscape Officer is that should anemometer records be favourable it may be followed by an application for 3 wind turbines of somewhere between 74 and 90 metres in height. For the information of the applicants the Landscape Officer has given some consideration to this issue and considers that it is unlikely that 1, 2 or 3 wind turbines at this location could be designed in such a way as to complement and enhance the landscape character of this part of the Park. This means that it would fail to meet the requirements of Policy 6 Landscape. In addition a wind turbine or wind cluster at this site would reduce the benefits of the removal of the pylons at this location as required by the Beauly to Denny mitigation scheme. The Landscape Officer's advice is attached in full at the back of the report.
38. **Civil Aviation Authority** has no objection to the proposal
39. **The Defence Estates** has no objection to the proposal

REPRESENTATIONS

40. No representations have been received

APPRAISAL

41. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise.
42. There is no direct policy relating to anemometer masts. However, they are a necessary part of the development of wind energy so should be considered in the

general context of renewable energy policy. As always with such proposals the key issues relate to ecological and landscape impacts. In this case the nearest dwelling is well over a kilometre away so the mast would not result in any appreciable impacts on neighbouring amenity.

43. In terms of ecology Scottish Natural Heritage has commented with regard to the Cairngorms Massif SPA which is designated for golden eagle. SNH object to the proposal unless it is subject to a condition requiring bird flight diverters to be placed on the stays of the mast. This is easily addressed by a planning condition which is recommended at the end of the report. The diverters would also be advantageous for wading birds which are likely to be in the area of the site. The CNPA Ecologist comments that the mast should not be erected in the ground nesting bird breeding season. Both of the ecological concerns can be addressed by planning condition so there are no grounds for withholding permission with respect to ecological issues.
44. Landscape and visual impact are clearly important issues with proposals of this type. Strategic objectives of the National Park Plan require development to complement and enhance the landscape character and this filter down to the Local Plan in the form of Policy 6 Landscape. Strategic Objectives for energy seek to contribute to national targets for energy generation through increasing community, business and domestic scale renewable energy schemes and this is reflected by Policy 15 Renewable Energy Generation in the CNP Local Plan.
45. In this case the mast proposed is temporary with permission being sought for a three year period. The mast is associated with renewables development which is positively viewed. However, the scale of what is being proposed must be assessed in terms of its landscape and visual impact. The CNPA Landscape Officer concludes that the landscape and visual impact would be slight and not significant. However, this conclusion is very much in the context of a temporary permission and also reflects the existence of the pylon line immediately adjacent to the site (which is due to be removed before November 2014). Without this context the Landscape Officer concludes that the impacts would be moderate and significant. This would not meet the policy test of complementing and enhancing the landscape character.

Technical Issues

46. Given the height of the mast a number of technical consultations have been carried out including the Civil Aviation Authority and Defence Estates who have no objections to the proposal.

Conclusion

47. In conclusion, the anemometer mast is considered acceptable in planning policy. However, this is clearly in the context of its temporary nature and the fact that there is a pylon line immediately adjacent to the site.

48. While this proposal is purely for an anemometer mast, it is associated with potential future proposals for wind turbines. Consequently, it is reasonable to highlight to the applicants that there would be serious concern with wind turbine proposals at this site. The response of the CNPA Landscape Officer touches on this issue and it is recommended that this response is sent to the applicant as an advice note along with the decision notice.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

49. The proposal is considered acceptable in terms of ecology, subject to the conditions set out at the end of the report. However, in landscape and visual terms it is only acceptable because of the temporary nature of the mast taken together with the existence of the nearby pylon line.

Promote Sustainable Use of Natural Resources

50. The proposal is part of the infrastructure for wind as a renewable resource and as such in the widest sense could be considered an integral part of promoting the sustainable use of the wind resource.

Promote Understanding and Enjoyment of the Area

51. The site is located on a tourist route (A939) across the Park. However, the temporary nature of the mast means that it is unlikely to have any significant impacts upon this aim.

Promote Sustainable Economic and Social Development of the Area

52. The proposal is put forward by a community development company and as such could be considered to be part of the economic and social development of the community.

RECOMMENDATION

53. That Members of the Committee support a recommendation to GRANT Planning Permission for the erection of a temporary anemometer mast, land 1,400m SW of Belbec, Dirdhu, Nethy, subject to the following conditions:

- I. The development to which this permission relates must be begun within three years from the date of this permission.

Reason: to comply with Section 58 of the Town and Country (Planning) Scotland Act 1997 or as amended by the Planning etc. Scotland Act 2006.

2. That on or before 3 years from the date of the consent, or when the land ceases to be used for the proposal hereby approved, whichever is the earlier date, the mast shall be removed, and the land restored to its former condition or such condition as may be agreed in writing with the CNPA acting as Planning Authority. The restoration shall take place within one month of the earliest above dates.

Reason: in accordance with the temporary nature of the proposal and in the interests of the amenity of the area.

3. Bird Flight Diverters (BFD) shall be attached to each stay at 5 metre intervals and secured in place to prevent them slipping down the wires. The BFD shall be positioned at different locations on all the stays. The BFD shall be maintained and replaced as necessary for the life of the anemometer mast.

Reason: to reduce the risk of collision by golden eagles and other birds.

4. The mast shall be erected outside of the breeding bird season | March to 30 June unless otherwise agreed in writing by the CNPA acting as Planning Authority.

Reason: to ensure disturbance to ground nesting birds is minimised.

Advice notes:

Please see attached consultation response from the CNPA Landscape Officer and in particular reference to potential future proposals for wind turbines.

Andrew Tait

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22 December 2011

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.