

Aberdeenshire

COUNCIL



Planning
Services

and

Environmental

INFRASTRUCTURE SERVICES COMMITTEE – 7 January 2004

Ref No: N/A

Formal Consultation Response on a Section 36 Application for a Windfarm at Clashindarroch Forest, Near Huntly

For: **AMEC Project Investments Limited, Wind Energy Division, Bridge End, Hexham, Northumberland**

Grid Ref:	NJ 430.330
Ward No. And Name:	EW48 (Huntly West)
Application Type:	Section 36 Consent
Representations:	Yes (made to the Scottish Executive)
Consultations:	10 (1 outstanding)
Relevant Proposals Map Designations:	<u>Statutory Local Plan</u> West Gordon Countryside <u>Finalised Aberdeenshire Local Plan</u> Countryside
Complies with Development Plan:	Statutory Structure Plan – Yes Statutory Local Plan - Yes Finalised Aberdeenshire Local Plan - Yes
Main Recommendation:	Support the principle of the windfarm subject to detailed comments and conditions

1. Reason for Report

1.1 The above matter is not covered by the Scheme of Delegation in place because it falls under Section 36 of the 1989 Electricity Act and not under the 1997 Town and Country Planning Act and is of strategic significance for Aberdeenshire. It is therefore referred to the Infrastructure Services Committee. Members should note that the procedures set out in the 1989 Electricity Act include provision for a public inquiry in circumstances where a relevant planning authority lodges a relevant objection (and does not subsequently withdraw it), unless Scottish Ministers propose to accede to the application subject to such modification or condition as will give effect to the objection of the relevant planning authority.

2. Principal Planning Issues (Summary)

- 2.1 The proposal is for the erection of 47 x 100 metre high (measured to blade tip) turbines in the Clashindarroch Forest, 6 km south west of Huntly and 6 km West of Rhynie, immediately adjacent to the boundary with Moray Council (Appendix 1). The total output of the wind farm would be over 50 MW. Therefore/-
- Therefore, it has to be dealt with directly by the Scottish Executive under Section 36 of the 1989 Electricity Act. Aberdeenshire Council is the main consultee and has been given 4 months to send a formal consultation response. The formal period for submitting comments expired on 14 November 2003, although the Scottish Executive have confirmed (by email) that an additional 28 days will be allocated for comments on the additional ecological information which they have been seeking from the applicant, when it becomes available.
- 2.2 The site is considered to lie within a tier 4 area (with a small proportion of the site within tier 3) as identified by Policies 5 and 26 of the Statutory Structure Plan and Policy Inf\7 of the Finalised Aberdeenshire Local Plan.
- 2.3 Policy 5 of the Statutory Aberdeen and Aberdeenshire Structure Plan (2001 to 2016) supports proposals for renewable energy facilities subject to ecological, transportation, landscape and amenity considerations.
- 2.4 Policy 26 of the Statutory Aberdeen and Aberdeenshire Structure Plan (2001 to 2016) states that in tier 4 areas, wind farm proposals will be permitted subject to individual sites and local circumstances. In tier 3 areas, wind farms will only be permitted following careful consideration of their effect on local designations and subject to individual sites and local circumstances identified in local plans. Where harmful effects are likely, it should be demonstrated that no suitable alternatives exist in tier 4.
- 2.5 Policy Inf\7 of the Finalised Aberdeenshire Local Plan supports the erection of wind farms in tier 4 areas and in tier 3 areas if no alternative sites are available in tier 4 areas, if they meet health and safety standards (noise, shadow flicker, ice throw, electromagnetic interference), their impact on the landscape is acceptable and adequate provision has been made for land restoration and decommissioning after the life on the wind farm.
- 2.6 The above policies support renewable energy developments where it is demonstrated that there is unlikely to be a significant impact, and subject to appropriate siting, layout and adequate mitigation measures. As transpires from the consultation responses, as summarised at Appendix 2, the proposed development is generally acceptable subject to relatively minor amendments to the submitted layout, adequate mitigation measures and appropriate conditions all

of which may be suggested to the Scottish Executive for inclusion in the final Section 36 Consent.

3. Representations (Summary)

- 3.1 Objections to this proposal have been made directly to the Scottish Executive. These representations have been placed in the Members' library together with a copy of the Environmental Impact Assessment for the proposed wind farm.

4. Area Committee Views (Summary)

4.1 At its meeting of 4 November 2003, the Marr Area Committee expressed concerns regarding the timescale set by the Scottish Executive to submit comments on the application. However, it agreed that, in order to meet the formal consultation deadline of 14 November 2003, the Planning Service's Committee report (with modifications) should be submitted to the Scottish Executive as a preliminary response to the consultation based on current policies but subject to amendments detailed in the minute of the meeting (Appendix 3). It also resolved to indicate to the Scottish Executive, its intention to visit the site and arrange a Public Hearing following which Members' views would be reported to the Infrastructure Services Committee in order to finalise the Council's formal response on the consultation. Accordingly, a letter stating the Planning Service's interim views and requesting that the Cairngorms National Park be formally consulted on the proposal given the proximity of the proposed development to the Park boundary was submitted to the Scottish Executive on 7 November 2003 (Appendix 4). The Planning Service understands that the National Park has since been formally consulted by the Scottish Executive, as have Historic Scotland and the Royal Society for the Protection of Birds. The Marr Area Committee visited the site and a Public Hearing took place in Huntly on 2 December. A minute of the Hearing is attached to this report (Appendix 5).

4.2 The views of the Marr Area Committee were finalised at its meeting of 16 December 2003. Members were asked to give their final views on the consultation. The formal minute is attached at Appendix 6 overleaf.

5. Officer's Recommendation

5.1 That, as the Council's formal consultation response to the Scottish Executive, Members agree the contents of this report which supports the principle of a windfarm at Clashindarroch Forest subject to reservations relating to issues of :

- **Hydrology impact**
- **Noise disturbance**
- **Visual clustering and overbearance**
- **Submission of habitat management plan**
- **Traffic disturbance**
- **Public access and recreation**

and subject to the following conditions:

5.2 List of suggested conditions:

- 1) The development to which this permission relates shall be begun within five years from the date of this permission.

- 2) The permission hereby granted shall be for a limited period of twenty five years from the date of commissioning of the development by which time, unless with the express written approval of the Planning Authority, all wind turbines, underground cables and foundations, buildings and ancillary equipment shall be dismantled and removed from the site, and the ground fully reinstated to the satisfaction of the Planning Authority in accordance with all the relevant conditions listed below.
- 3) In the event that any wind turbine fails to produce electricity supplied to a local grid for a continuous period of 6 months, as demonstrated by the submission of operating records and accounts, it will be deemed to have ceased to be required and unless otherwise agreed in writing by the Planning Authority, the wind turbine and its ancillary equipment including cables and foundations shall be dismantled and removed from the site, and the ground fully reinstated to the specification of the Planning Authority.
- 4) Within two years of the commissioning of the wind farm, a fully detailed scheme for the ultimate reinstatement of the site shall be submitted for the further consideration and approval by the Planning Authority.
- 5) Within one month of the complete wind farm becoming operational, all soil and material stockpiles shall be removed, borrow pits and construction areas reinstated using the original plant and organic material carefully lifted, set aside and stored growing side up, for re-use at the reinstatement stage or shall use an equivalent seed mix, all to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage
- 6) Prior to commencement of the development, details of the method of reinstatement and its timing, including seed mixes to be used, shall be submitted for the approval of the Planning Authority. For the avoidance of doubt, wind turbine bases shall be fully buried to allow existing land management to continue below the wind turbines.
- 7) The burying of cables shall be carried out so that areas concerned are fully reinstated to specifications, which will allow all on site activities to continue unimpeded. The specifications and details of the road-building package shall include details of cable burying operations.

- 8) Prior to commencement of the development, details shall be submitted of the proposed borrow pits which are to be included in the scheme and shall indicate the extent of scarring caused by workings, proposed volumes of materials to be removed shall be submitted for the further consideration and approval by the Planning Authority.
- 9) Prior to commencement of development, adequate financial provision for the decommissioning and removal of turbines and full re-instatement of the site when the development working life is over must be put in place by the developer to the satisfaction of the Planning Authority.
- 10) Wind turbines and wind monitoring masts shall be sited in accordance with the submitted site layout plan reference CL-ES-003 (Figure 3) dated 4 July 2003 contained in volume 3 of the Environmental Statement. For the avoidance of doubt, the prior written approval of the Planning Authority shall be required for the siting of any wind turbine or wind monitoring mast more than 30 metres from the identified location, or any position closer to any dwellings.
- 11) No wind turbine generator shall be sited closer than 660 metres from any residential premises at the time of this application. In the event of any complaints regarding shadow flicker, the operator must instigate appropriate mitigation measures to minimise effects of shadow flicker.
- 12) Notwithstanding the details shown in the Environmental Statement, turbines 43 and 46 shall be omitted from the final layout.
- 13) Prior to their delivery to the site, details of the design of wind turbines and transformers, including the make, model, design, power rating and sound power levels of wind turbines to be used on the site shall be submitted to, and require the approval of the Planning Authority, in consultation with Scottish Natural Heritage. For the avoidance of doubt, the wind turbine towers shall be solid tapered appearance, and three-bladed rotors and dimensions not exceeding 67 metres to the top of the tower and a total of 100 metres in height to the tip of the blades in a vertical position as per Appendix 5 of the Environmental Statement (volume 3). Transformers shall be located within the towers, if this is technically possible and the safest option.
- 14) The wind turbines (including tower and rotor) shall be finished in a non-reflective colour to be agreed in writing by the Planning Authority prior to commencement of the development.

- 15) Prior to commencement of the development, details of the compounds (including elevation details) and fencing shall be submitted for the further consideration and approval of the Planning Authority.
- 16) Within 6 months of the complete wind farm becoming operational, the temporary contractors' compounds shall be removed and the site reinstated to the satisfaction of the Planning Authority
- 17) Notwithstanding the details shown in Appendix 10 of the Environmental Statement (volume 3), the design of the control room associated with the electricity sub-station shall be amended to reflect the traditional architecture of rural Aberdeenshire (including a pitched roof of at least 35 degrees) and be finished with traditional materials (natural slate and a traditional wet harl finish to the walls) and colours sympathetic to a rural location.
- 18) Prior to commencement of the development, a detailed specification and working plan for the access tracks to serve the wind farm shall be submitted for the consideration and further approval of the Planning Authority. Such specifications and working plan shall include a methodology statement incorporating proposed covering topsoil management and vegetation reinstatement together with management provision for drainage, materials to be used, and proposals for the on-going maintenance of the tracks. Illustrative cross-sections of the tracks shall be included within the further details to be submitted.
- 19) Prior to commencement of development, a survey of all the historic routes crossing the site shall be carried out by a competent archaeologist in consultation with the Planning Authority. These routes shall remain unobstructed by the proposed development to the satisfaction of the Planning Authority and appropriate mitigation measures shall be put in place, in consultation with the Planning Authority's archaeologist, to physically protect these routes at every point of intersection with the new turbine access road prior to work commencing on site.
- 20) Prior to commencement of the development, a programme of archaeological works, by a competent archaeologist, shall be submitted for the further consideration and approval of the Planning Authority in consultation with the Council's archaeologist. The works shall include:

- (i) A pre-felling on-site survey work of sites 28, 29, 31, 32 and 36 (identified on Figure 32 of volume 3 of the Environmental Statement)
- (ii) The delimitation of a 30 metres buffer zone around sites 1 and 51 (identified on Figure 32 of volume 3 of the Environmental Statement)

The programme shall include marking out with posts and coloured tapes and protection measures at all the above sites and re-routing of tracks as necessary. All protection shall be installed prior to the commencement of works on site. Any remains currently undetected, which do come to light as a result of the construction of the wind farm, shall be recorded using a methodology to be agreed in advance with the Council's archaeologist.

- 21) Prior to commencement of development, a road condition survey shall be carried out by the developer for the consideration and further approval of the Planning Authority in consultation with the Roads Service. This survey shall identify necessary road improvements (including protection of all pipework such as that relating to private water supplies) and a methodology for carrying out the works shall be established in consultation with the Planning Authority and all the residents along the C115S, including the owner/occupiers of the following properties: 1 and 2 Wellhead Cottages (Huntly) Drumfearn, Mellowdew, Artloch House, Lochsyde/Mill of Artloch, Donn-Beinn, Terryhorn, Cairnagat, Cairnagat Steading, Asswanley Croft and Mallach (Longhill). The specifications and details of the road-building package shall include details of cable burying operations.
- 22) Prior to commencement of the development, a traffic management plan during construction works shall be drawn up by the developer for the consideration and further approval of the Planning Authority in consultation with the Roads Service and Grampian Police in discussions with all the residents along the C115S including the owner/occupiers of the following properties: 1 and 2 Wellhead Cottages (Huntly) Drumfearn, Mellowdew, Artloch House, Lochsyde/Mill of Artloch, Donn-Beinn, Terryhorn, Cairnagat, Cairnagat Steading, Asswanley Croft and Mallach (Longhill). This plan shall then be implemented to the satisfaction of the Planning Authority.
- 23) Prior to commencement of the development, details of a scheme for monitoring the impact of the development on birds, to be agreed with Scottish Natural Heritage and the Royal Society for the Protection of Birds, shall be submitted to and require the approval of the Planning Authority. Such monitoring shall include regular recordings of bird strike casualties in

particular. Any dead birds found anywhere on the site, including species and position, shall be reported without delay to the appointed bird monitoring officer. An annual report summarising the results of monitoring shall be submitted to the Planning Authority.

- 24) Prior to commencement of the development a detailed forest design re-stocking plan shall be submitted by the developer for the further consideration and approval of the Planning Authority. The plan shall establish a new upper boundary to the western edge of Clashindarroch Forest; an improved woodland structure of the area adjacent to the development and how it relates to the rest of the forest; an improved species structure of the woodlands areas adjacent to the development. The submitted forest plan shall also indicate the long term retentions and management proposals to improve conservation interests; the long term retention to screen residences such as the Tillathrowie area; how the re-emerging moor habitat will be managed in the areas cleared for turbines and how the special structure designed for the turbines relate to the long term design structure for the main forest area taking into account landscape features.
- 25) The wind turbines shall all rotate in the same direction i.e. all clockwise or all anti-clockwise
- 26) The site shall not be illuminated without the prior written approval of the Planning Authority.
- 27) No symbols, signs, logos or other lettering shall be displayed on any part of the wind turbines nor any buildings or structure without the prior written approval of the Planning Authority.
- 28) Prior to commencement of the development, the developer shall investigate and provide mitigation measures or amendments to the development necessary to protect or replace the existing private water supplies, all to a quality and quantity that meet the Private Water Supplies (Scotland) Regulations 1992 governing private water supplies. Immediate temporary water supplies must be provided to those affected until permanent mitigation and replacement measures are implemented within 28 days of the erection of any mast, turbine or other works affecting the supply, as identified in Section 11.2.3, Volume 2 of the Environmental Statement, to the satisfaction of the Planning Authority.
- 29) Prior to commencement of the development, the developer shall commission and submit to the Planning Authority, a base line survey of the existing television reception quality at all

dwellinghouses where interference may occur. Within 6 months of the wind farm coming into use, mitigating measures to rectify interference and enhance reception to the best general standard of the local area as identified in the base line survey, shall be implemented in accordance with the recommendations of NTL on detailed survey of affected sites and at the developer's expense. The same base line testing and mitigation measures to rectify interference shall take place at dwellinghouses approved and constructed within the survey area in the lifespan of the wind farm permission. These recommendations shall be lodged with the Planning Authority.

- 30) Access to the site by heavy goods vehicles shall be restricted to 7.00am to 7.00pm on Monday to Fridays and from 7.00am to 12 noon of Saturdays with no such access on Sundays. Any construction activity involving audible noise from cutting, hammering or welding shall be subject to the same hours of operation, unless specific exceptions are first approved in writing by the Planning Authority
- 31) Oil stored at the construction compound shall be adequately bunded to the satisfaction of the Scottish Environmental Protection Agency. Re-fuelling shall be restricted to this point except in cases of emergencies where re-fuelling shall only be undertaken with the use with purpose built portable sand traps in order to avoid spillage.
- 32) The overall nominal Sound Power Level at each octave band for the turbine shall not exceed the levels specified for the generic turbine referred to in Section 7.4, Volume 2 of the Environmental Statement submitted by the applicant. Prior to commencement of the development, the applicant shall secure a warranty, from the turbine supplier and/or manufacturer, that the sound power level of the turbines will not exceed the nominal level at each octave band by more than 2dB. The turbines shall be designed to permit individually controlled operation, or cut out, at specified wind speeds and directions in order to facilitate compliance with noise level criteria to the satisfaction of the Planning Authority in consultation with the Council's Environmental Health Service.
- 33) In accordance with Section 7.6, Volume 2 of the Environmental Statement only turbines that would not exhibit any of the tonal characteristics that would give rise to a penalty (as defined in the document titled 'The Assessment and Rating of Noise from Wind Farm') shall be considered for the proposed development. Prior to commencement of development, the applicant shall be required to submit details of the Suppliers' and/or Manufacturer's Guarantee, in accordance with the approved recognised standard, and submit the terms and details of the

standard or a copy of the standard detailing the assessment method, for approval by the Planning Authority. In the absence of such Guarantee, a tonal penalty of 5dB will be assumed and noise levels specified above will be reduced by 5dB.

- 34) The wind farm operator shall log wind speed and wind direction data continually and shall retain the data, which has been obtained for a period of no less than the previous 12 months. The data shall include the average wind speed in metres per second for each 10-minute period. The measuring periods shall be set to commence on the hour or in 10-minute increments thereafter. The wind speed data shall be made available to the Planning Authority on request. The data shall be provided on a Microsoft Excel Spreadsheet in electronic format. In the case where the wind speed is measured at a height other than 10m, the data shall be supplemented by adjusted values which allow for wind shear, normalise to 10m height. Details of the wind shear calculation shall be provided.
- 35) The wind farm operator shall measure, at its own expense, the level of noise emissions from the wind turbines quarterly within the first year of operation of the turbines and every 2 years thereafter. The frequency of measurement of the level of noise emissions will be subject to review every 2 years by the Planning Authority.
- 36a) Noise arising from the wind turbines shall not exceed an L_{a90} , 10 min of 35 dB at Bogancloch Lodge and Bogancloch House, (Grid Reference 34368294 and 34368295 respectively). This condition shall apply at wind speeds not exceeding 10ms^{-1} , as measured at a height of 10m above ground level at Grid Reference 34138304 at the wind farm and shall only apply only apply to dwellings (vacant or occupied) existing at the date of this Planning Permission. Should these noise levels be exceeded, the Wind Turbine operator shall take steps to ensure that noise emissions from the wind farm are reduced to the aforementioned noise levels or less.
- 36b) At the reasonable request of the Planning Authority, following a complaint to Aberdeenshire Council relating to noise emissions from Wind Turbines, the wind turbine operator shall measure, at its expense, the level of noise emissions from the Wind Turbines (inclusive of existing background noise) using an L_{A90} index over a minimum of 20 periods each of 10 minutes duration. At/-

At least 10 of the periods of measurement shall be made at Wind Speeds between a wind speed specified by the Council and a wind speed of not more than 2 metres per second above that specified by the Council. At least 10 measurements shall

be made at wind speeds between the wind speed specified by the Council and a wind speed not less than 2 metres per second below that specified by the Council. Measurements of noise emissions shall, as far as is practically possible, be made in consecutive 10-minute periods provided that they fall within the wind speed range defined in this clause.

Where considered appropriate by the Planning Authority the Wind turbine operator will be required to carry out an assessment for tonal noise in accordance with the procedure recommended in Chapter 6 of the document The Assessment and Rating of Noise from Wind Farms (ETSU-R-97) i.e. the procedure based on the Joint Nordic Method.

Where the tone level above audibility is greater than 2 dB at tonal penalty shall be applied to permitted noise levels, in accordance with Figure 16 of the document; so that the permitted levels specified in Clause 38(a) above will reduced by the tonal penalty.

- 36c) The measurements under clause 38(a) shall be made using a sound level meter of at least Type 1 quality (as defined in International Electrotechnical Commission Standard 651 (1979)) incorporating a windshield with a ½ inch diameter microphone in free-field conditions between 1.2 - 1.5 metres above ground level and at least 10 metres from any wall, hedge or reflective surface (using a fast time weighted response).
- 36d) (i) Measurements made in accordance with the provisions of conditions in order to demonstrate compliance with the requirements of 38(a) shall be correlated with wind speeds.
- (ii) The $L_{A90, 10min}$ noise level from the combined effect of the Wind Turbines (inclusive of existing background noise) shall be derived using a Best Fit Curve.

The locations of monitoring shall be determined by or agreed with the Planning Authority.

- 36e) The developer shall supply wind speeds and wind direction data to the Planning Authority at it request to enable the Planning Authority to monitor compliance of conditions 32, 33, 34, 35 and 36 (a to e).

5.3 Reasons for conditions

- 1) In order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997

- 2) In recognition of the expected lifespan of the wind farm and in the interests of safety and amenity once the plant is redundant
- 3) In the interests of safety, amenity and environmental protection of the plant become redundant during or at the end of its lifespan
- 4.8) In the interests of visual amenity and landscape protection
- 9) To ensure that adequate financial provision is put in place to secure the timeous restoration of the site to the satisfaction of the Planning Authority
- 10) To protect householder amenity, the natural habitat and built heritage of the site
- 11) In the interests of the safety, amenity and environment of the site and area
- 12) In the interests to protect the amenity of residents in the Tillathrowie area
- 13-18) In the interests of visual amenity and landscape protection
- 19&20) In the interest of protecting the archaeological heritage at the site
- 21&22) In the interests of road safety and to protect the amenity of residents along the C115S minor road
- 23) In the interests of maintaining records of the impact of the site on bird populations, to inform the Planning Authority of future development of this type
- 24) To lessen the overall impact of the development on the landscape
- 25-27) In the interests of visual amenity and landscape protection
- 28) In the interests of health, safety and amenity of households in receipt of domestic water supply within the site
- 29) In the interest of amenities of residents in the area, such that the development is not detrimental to domestic television reception
- 30) In the interests of protecting the amenity of local residents
- 31) In order to prevent environmental pollution of groundwater or watercourses at the locus

32-36) In the interests of protecting the amenity of residents in the area

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