

**The Highland Council
No. 5 2016/2017**

Minutes of the Site Visit and Special Meeting of The Highland Council held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 8 November 2016 at 9.00 am and 2.00 pm respectively.

**1. Calling of the Roll and Apologies for Absence
A' Gairm a' Chlàir agus Leisgeulan**

Present:

Mr R Balfour
Mrs J Barclay
Mrs I Campbell
Miss J Campbell
Mrs G Coghill
Mr J Crawford
Mrs M Davidson
Ms J Douglas
Mr A Duffy
Mr B Fernie
Mr S Fuller
Mr J Gordon

Mr J Gray
Mr R Greene
Mr M Green
Mr D Kerr
Mr D Mackay
Mrs I McCallum
Mrs M Paterson
Mr T Prag
Mr A Rhind
Dr A Sinclair
Ms K Stephen
Mr H Wood

In Attendance:

Mr D Mudie, Team Leader, Development and Infrastructure
Mr K McCorquodale, Principal Planner, Development and Infrastructure
Mr M Clough, Senior Engineer (Transport Planning), Development and Infrastructure
Mrs K Lyons, Principal Solicitor (Planning), Corporate Development
Miss C McArthur, Solicitor, Corporate Development
Mr S Taylor, Administrative Assistant, Corporate Development

Mrs I McCallum in the Chair

Also in Attendance:

Mr J Wheeler, SSE, for the applicant
Ms J Nicholson, SSE, for the applicant
Mr S Robertson, SSE, for the applicant

Ms P Wells, for the Community Council and Save Strathdearn Campaign
Mr P Bennett, third party objector
Mr G Jones, third party objector

Apologies for absence were intimated on behalf of Dr D Alston, Mr A Baxter, Mr D Bremner, Mr I Brown, Mrs C Caddick, Mrs H Carmichael, Mr A Christie, Mr B Clark, Dr I Cockburn, Dr J Davies, Mr N Donald, Mr D Fallows, Mr G Farlow, Mr M Finlayson, Mr C Fraser, Mr H Fraser, Mr L Fraser, Mr B Gormley, Mr K Gowans, Mr A Graham, Mr A Henderson, Mr R Laird, Mr B Lobban, Mrs L MacDonald, Mr N MacDonald, Mr J McGillivray, Mrs D Mackay, Mr W Mackay, Mr G MacKenzie, Mr A Mackinnon, Ms A MacLean, Mr T MacLennan, Mr K MacLeod, Mrs B McAllister, Mr D Millar, Mr H Morrison, Ms L Munro, Mr B Murphy, Mr F Parr, Mr G Phillips, Mr M Rattray, Mr M Reiss, Mr I Renwick, Mr G Rimell, Mrs F Robertson, Ms T Robertson, Mr J Rosie, Ms G Ross, Mr G Ross, Mr R Saxon, Mrs G Sinclair, Mrs J Slater, Ms M

Smith, Mr J Stone, Mr B Thompson and Mrs C Wilson.

2. Declarations of Interest Foillseachaidhean Com-pàirt

There were no declarations of interest.

3. Applications to be Determined Dealbhadh rin Dearbhadh

3.1 Applicant: Scottish Hydro Electric Transmission (SHET) PLC (16/00769/FUL) (HC/40/16)

Location: Land 900m NW of Asgard, Garbole, Tomatin (Ward 20 – Inverness South)

Nature of Development: Development of a 275kV / 132kV substation by Garbole (Tomatin)

Recommendation: Grant Planning Permission

There had been re-circulated Report No HC/40/16 by the Head of Planning and Environment recommending the grant of the above planning application subject to the conditions detailed therein.

At its meeting on 9 September 2016, the Council had agreed to defer consideration of the application to enable a further site visit to include views from Garbole Road and the application site itself. As it had not been possible to obtain a Council quorum of 20 from the 27 members that attended the original site visit and special meeting on 9 September, all 80 Council members were subsequently invited to attend a new site visit and special meeting incorporating all the locations previously visited on 9 September for this application and the additional new locations which had been agreed following discussion with local members.

Site Inspection

The meeting convened at 9.00 am when the site visit took the Council by bus to view the proposed substation development from a number of viewpoints. At each stop Mr K McCorquodale spoke to his Report and pointed out physical features relevant to the application and those representing the Applicant and Objectors were given the opportunity to point out physical features relevant to the application and the objections lodged.

The Council thereafter convened in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness at 2.00 pm.

Hearings procedure

The application was subject to a formal Hearings Procedure, which was summarised by the Chair, all parties confirmed that they understood the process.

Prior to introduction of the application, the Chair advised Members that paragraph 1.3 of the Report made reference to a separate application, the construction of a 275kV grid transmission line which the Council had raised no objection to at its meeting on 9 September 2016, and therefore was not relevant to the application under determination.

Introduction

The Principal Planner introduced the application and gave a description of the proposed substation development, during which he made reference to two questions which had been raised during the site visit and confirmed the following:-

- The volume of material required to be worked on the site to create the compound/level platform area from the “cut and fill” exercise would be approximately 63,000 cubic metres of soil; and
- The height of the electricity pylons, in particular the 275kV towers, would range between 45m and 55m in height to tip.

Applicants

Speaking on behalf of the applicants, Scottish Hydro Electric Transmission (SHET) PLC, Mr James Wheeler indicated that the proposed substation development was required as part of the upgrade of the transmission network between Tomatin and Knocknagael to ensure sufficient capacity for contracted generation in the area. He highlighted that the existing network was currently running at capacity with the existing generation from Farr Wind Farm and that an upgrade was required to allow for the future connection of Glen Kyllachy and Tom nan Clach Wind Farms. In recognition of the concerns raised during the consultation process on a preferred site for the development, the application site within Garbole Woodland was considered the best solution in order to minimise overall impacts on residents and visual amenity, whilst allowing a scheme that was technically feasible to build. It was recognised that there were still some elements of concern from local residents; however, a number of mitigation measures had been recommended to reduce the impact of the proposed development on residents and the environment. He expressed the view that the proposals did not conflict with the Council’s Highland-wide Local Development Plan (HwLDP) and was acceptable in planning terms.

In response to questions asked, Mr P Wheeler and/or Ms J Nicholson advised that:-

- Whilst noise levels were not anticipated to cause a problem to local residents, noise mitigation measures had been put in place. This included the selection of a transformer from a range of designs which produced the least amount of noise and the facilitating of acoustic barriers;
- In terms of the Species Protection Plan, this had been developed over a number of months in consultation with Scottish Natural Heritage (SNH). An Ecological Clerk of Works would be located onsite to ensure that the Species Protection Plan was implemented. Members were further advised that this would be audited on a regular basis;
- Given the density of the site and the area of higher value habitat to the south of the site, there would be reluctance from both the applicant and Scottish Environmental Protection Agency (SEPA) to raise the height of the screening bunds; however, in terms of mitigations and the zone of theoretical visibility, there was fairly limited visibility of the substation and this would only encompass a section of the roof of the substation building.
- Measures had been sought to try and ensure that the woodland was managed in a way that provided continuous screening; however, it was acknowledged that management of some parts of the woodland will be out of direct control of the applicant;
- The upgrades to the transmission network were required for any further significant developments within the locality such as Tom nan Clach Wind Farm,

which had recently been approved by the Scottish Government and was currently under construction; and

- Whilst it was hypothesised that the proposed substation would not be built in the event that none of the developments in the area proceeded, the applicant was in a contracted position with National Grid to provide connections for energy generators and was currently in a position whereby a developer was proceeding with the development of a substantial windfarm requiring an upgrading of the network.

Community Council and Third Party Objectors

Mr Peter Bennett, raised a number of concerns, including:-

- The industrialisation of the Farr Estate at Glen Kyllachy would spill out into Strathdearn by the proposed construction of the substation and supporting infrastructure;
- Strathdearn was rich in history, scenery and biodiversity and was visited by thousands of people every year; therefore, it should be protected so that future generations could enjoy it;
- The noise generated by the proposed substation would cause problems and potential health issues in the future and it was highlighted that similar ongoing noise issues at Wester Balblair substation had not yet been resolved;
- The close proximity of the substation, combined with the cumulative impact of additional wind turbines and power lines, would have a detrimental impact on property values;
- To construct the substation and overhead lines, 36ha of trees would have to be felled, ripping the heart out of the Garbole Wood and leaving a devastating effect on the biodiversity of the area;
- The Farr Wind Farm road to the application site was approximately 2 kilometres, of which half of this distance was forest track requiring substantial reinforcement. The other half of the road was through inaccessible forest which was very wet, undulating and, in parts, followed the natural fall of hill; and
- The development of the proposed substation would have a devastating long term and irreversible impact on the future of Strathdearn.

Mrs Pat Wells, representing the Save Strathdearn Campaign and also speaking on behalf of Strathdearn Community Council raised a number of concerns, including:-

- The proposed development would have an impact on the surrounding woodland, which contained a number of important habitats and supported a wide range of birds, animals, plants and insects;
- The world-renowned landscape of Strathdearn would be degraded and its natural historic and cultural heritage irreparably damaged, ruining the ambience enjoyed by many people;
- The proposed design failed to comply with Policy 28 of the HwLDP as the applicant had not demonstrated sustainable design in the context of the natural and historic heritage of the site which would be destroyed;
- The applicant had failed to demonstrate a necessity to build on this site, and that all other sites had not been adequately considered; therefore, the application was contrary to Policy 52 of the HwLDP;
- The wealth of flora and fauna on the site was highlighted and contrasted with the applicant's environmental appraisal, which failed to identify many of the species protected under legislation;
- Dalarossie Church and the McGillivray family were cited as examples of both the historic and cultural heritage associated with Garbole and concern was

expressed at the church being overshadowed by the substation and associated infrastructure;

- With regard to Policy 58 of the HwLDP, an ecology survey undertaken by A.M. Jones BSc PhD on behalf of the Save Strathdearn Campaign had highlighted that more than 40 species on the Scottish Bio-diversity list and/or subject to UK or EU legislation were found in a relatively short survey period and it was emphasised that numerous protected species would suffer significant adverse impacts. SNH's response indicated that the survey was both competent and had clearly demonstrated the biodiversity of the site;
- The hills to the south of the proposed development were widely used by hillwalkers, skiers and for sporting activities and claims that the proposed development would contribute positively to the economic and social development community were refuted;
- Screening of the mature forest around the site would be generated by trees which were classified as mature, close to clear-fell and could succumb to wind blow; therefore, trees should not be considered to provide adequate screening;
- The River Findhorn was important for salmon and trout and concerns were raised regarding the potential for pollution arising from the application site, given its close proximity to the river. Concern was also expressed that the Findhorn and District Fisheries Board had not been consulted on the proposed development;
- The need for grid reinforcement in this area was questioned given the changing UK Government policy for onshore wind farm subsidies, further CFD bidding opportunity and the falling rate of the UK as a place for investment in renewable energy; and
- It was highlighted that Tom nan Clach and Kyllachy were the only two consented windfarms to have contracted connections to the proposed development.

Applicant's Response to Points Raised

The Chair having ascertained that there were no further parties present that had given notification of their wish to speak, invited the applicant to respond to the points made.

Ms Joanne Nicholson, speaking on behalf of Scottish Hydro Electric Transmission (SHET) PLC, referred to the ecology survey undertaken by A.M. Jones BSc PhD on behalf of the Save Strathdearn Campaign and stated that SHET's ecological surveys had focused on species protected by legislation, species of conservation concern noted within wild diversity action plans and qualifying species of designated sites. She expressed the view that ecological surveys were a snap-shot in time and could vary from one survey to another and that this was recognised in the Species Protection Plan. She advised that further pre-construction surveys detailing the presence or absence of these species would be undertaken and that the ecology survey by A.M. James BSc PhD would be used to inform those surveys.

In noting SNH's response, she stated that this expanded to further say that protected species onsite could be dealt with by using the mitigation measures identified within the applicant's Species Protection Plans. However, it was acknowledged that one exception to this was in relation to wildcats, and as part of the planning conditions, extensive surveys would be undertaken to ensure the presence or absence of wildcat, including the use of camera traps. SNH's response had also stated that there were plenty of natural habitats in the wider area for wildcat; therefore, the loss of any hunting range within the site would have minimal impact on these species. The applicant recognised that there were some issues, but she confirmed that they worked very hard with contractors and their own Ecological Clerk of Works to ensure that these were properly managed on site. She highlighted that this was a

coniferous plantation and an element of this would be replaced with mixed native woodland, which over time would enhance biodiversity.

The Chair having ascertained that Members had all the information they required to determine the application and in accordance with the hearings procedure, sought confirmation from the objectors and applicants that they were satisfied with the way the hearing had been conducted.

Mr Bennett was dissatisfied that he had not been permitted to suggest an alternative site for the proposed development, but other than this, parties were satisfied with the way in which the hearing had been conducted.

Summing-up and Discussion

The Principal Planner summarised the main points of the application, making reference to the pertinent Policies as detailed in the report and the material considerations that had been taken into account in the assessment of the application.

The Chair having ascertained that there were no points of clarification required by Members, opened the meeting to discussion, during which, Members raised the following issues:-

- The proposed development would not have an economic impact on the area as the location of the powerlines and substation was unlikely to affect the decision of tourists on whether to go hillwalking in the area;
- Whilst acknowledging the concerns expressed regarding protected species, the applicant had done as much as it could to mitigate these circumstances;
- With reference to comment made regarding the industrialisation of the estate, it was alluded to that Findhorn Viaduct and the former A9 Road Bridge to the north west of the site would have previously been regarded as industrialisation but were now considered as historic heritage features;
- It was emphasised that the substation would be well hidden by the screening and would not be seen from the majority of receptors in the area. Therefore, given the application formed part of national infrastructure, the proposed development would not have an unacceptable environmental impact as mentioned in Policy 69 of the HwLDP;
- Concern was expressed that the proposed development could industrialise what was a very beautiful glen and that by refusing the application, the opportunity would be afforded to the applicant to come back with an alternative site that would remove all objections;
- With reference to Scottish Government Control of Woodland Removal Policy, which sought to ensure that proposed development could be reasonably achieved without resorting to woodland removal, concern was expressed that the screening was dependent on the retention of existing mature trees and any such removal would lead to a period of greater visibility of the site;
- In highlighting the site's location on a hill, and its exposure to wind coming in from a variety of directions, it was suggested that Condition 7 be amended to include a requirement for the applicant to undertake replanting in the event of any failures in landscape planting;
- In highlighting the wide range of important species located within the surrounding area, particular emphasis was made of the wildcat's status as an endangered species and it was queried why a formal Environmental Impact Assessment had not been carried out on the application site;

- Concern was expressed regarding hedgehogs and other small mammals becoming trapped in cattle grids;
- In response to a question regarding the amount of materials to be taken out, it was highlighted that the application site was large, covering an area of 8.06ha;
- Whilst acknowledging the concerns of local communities, the applicant would not have sought to build a new substation if it was unnecessary, and the construction of Tom nan Clach Wind Farm was highlighted as a factor in the applicant's requirement to build in this location;
- The importance of communities working with the applicant was emphasised, in particular regarding concerns raised around species protection; and
- A request was made that an additional condition be included within the recommendations requiring the formation of a Community Liaison Group to be convened and administered by the applicant.

The Principal Planner responded as follows:-

- The River Findhorn Fisheries Board had not been consulted as it was not a statutory consultee and there had been no particular concerns raised with regard to the Findhorn River from both SEPA and SNH during pre-application discussions;
- Whilst he was content that applicant's management plan would ensure that the environment would be receptive to tree planting proposed, an amendment to Condition 7 could be made to require replanting to be carried out by the applicant in the event of any failures in landscape planting; and
- With regard to the issue of small mammals becoming trapped in holes, it was highlighted that environmental management procedures would be in place during construction to ensure the provision of ramps and escape hatches around any open pit left open overnight.

No consensus having been reached by Members, Mrs I McCallum, seconded by Mr J Gray **moved** that the application be granted subject to the conditions recommended in the report including:-

- an amendment to Condition 7 to require replanting to be carried out by the applicant in the event of any failures in landscape planting; and
- an additional condition requiring the formation of a Community Liaison Group to be convened and administered by SSE.

Mr J Crawford, seconded by Mr D Mackay moved as an **amendment** that the application be refused on the grounds that the application is considered to be contrary to Scottish Government Control of Woodland Removal Policy and Policy 52 of the HwLDP, as the site selected will result in the removal of forestry which could have been avoided by selection of a site out with the woodland.

On a vote being taken, nineteen votes were cast in favour of the **motion** and four in favour of the **amendment**, with one abstention as follows:

For the motion (19)

Mrs J Barclay
 Mrs I Campbell
 Mrs G Coghill
 Mrs M Davidson
 Ms J Douglas
 Mr A Duffy

Mr B Fernie
Mr S Fuller
Mr J Gordon
Mr J Gray
Mr R Greene
Mr M Green
Mr D Kerr
Mrs I McCallum
Mr T Prag
Mr A Rhind
Dr A Sinclair
Ms K Stephen
Mr H Wood

For the amendment (4)

Miss J Campbell
Mr J Crawford
Mr D Mackay
Mrs M Paterson

Abstention (1)

Mr R Balfour

The motion therefore became the finding of the meeting and the Council agreed to **GRANT** planning permission, subject to the conditions recommended in the report including:-

- an amendment to Condition 7 to require replanting to be carried out by the applicant in the event of any failures in landscape planting; and
- an additional condition requiring the formation of a Community Liaison Group to be convened and administered by SSE.

The meeting ended at 3.55 pm.