

## Item: 4.2

**Planning Committee: 18 December 2019.**

### **Erect Anemometer Mast for a Temporary Period of Two Years at Wee Fea (Land Near), Hoy.**

**Report by Executive Director of Development and Infrastructure.**

## **1. Summary**

### **1.1.**

It is proposed to erect an anemometer mast, up to 90 metres in height, for a temporary period of two years, by Wee Fea, Hoy. One objection has been received on grounds of conflict with both Local Development Plan policies and Supplementary Guidance, with regards duration of temporary permission sought, nature of apparatus used and the location within a protected area (Local Nature Reserve). Whilst the issues raised are in part contrary to both the Orkney Local Development Plan 2017 and Supplementary Guidance, the matters have either been addressed by the applicant in the course of consideration of the application or can be safeguarded by condition. On balance the issues raised can be mitigated. The proposed development is therefore considered to accord with Policies 1, 2, 7D(vi), 8B, 9A, 9G, 10 and 14 of the Orkney Local Development Plan 2017, relevant planning guidance and material planning considerations. Accordingly, the application is recommended for approval.

|                     |  |
|---------------------|--|
| Application Number: | 19/286/PP.   |
| Application Type:   | Planning Permission.   |
| Proposal:           | Erect an anemometer mast for a temporary period of two years (maximum height 90 metres). |
| Applicant:          | Orkney Islands Council, c/o Mr Sweyn Johnston.   |
| Agent:              | Justin Reid, TNEI, 1 West Regent Street, Glasgow, G2 1RW.                                |

### **1.2.**

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

[https://www.orkney.gov.uk/Service-Directory/D/application\\_search\\_submission.htm](https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm)  
(then enter the application number given above).

## **2. Consultations**

Consultees have not objected or raised any issues which cannot be addressed by planning conditions.

### 3. Representations

#### 3.1.

One objection has been received from:

- Mr Leslie Sinclair, 31A Broad Street, Kirkwall, KW15 1DH.

#### 3.2.

The objection is based on the following matters, which have been considered in the assessment of the proposal:

- The applicant does not justify the need for a monitoring period of three years which exceeds the maximum period of two years as stated in Policy 7 Energy D (vi).
- The applicant has not provided sufficient justification for the use of a physical anemometer mast rather than low impact digital monitoring equipment as indicated in Policy 7D (vi) and OIC Supplementary Guidance: Energy section 4.07.
- The proposed site for development lies within the bounds of Hoy and North Walls SSSI Moorland Fringes Local Nature Conservation Site and on an area of Class 1 nationally important carbon-rich soil. Alternative locations are available in close geographic proximity to the site and as such the development is contrary to Policy 9A.
- The application does not include a Habitats Regulations Appraisal.

#### 3.3.

In the course of consideration of the application, the developer has stated that a two year monitoring period is acceptable, from the three year period as initially proposed, and can be secured by planning condition as such. This addresses Policy 7 Energy D (vi) and one of the points of objection noted within the representation received.

### 4. Relevant Planning History

#### 4.1.

| Reference.    | Proposal.  | Location.     | Decision.                |
|---------------|--|---------------|--------------------------|
| 18/185/S36SCO | Scoping opinion request for proposed Section 36 application for 30 x wind turbines (max height 125 metres) | Wee Fea, Hoy. | Scoping opinion adopted. |

#### 4.2.

No pre-application advice was sought by the applicant in advance of submission of the application.

## 5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary guidance can be read on the Council website at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 7 – Energy, D - Onshore Wind Energy Development (monitoring equipment, vi)
  - Policy 8 – Historic Environment and Cultural Heritage B - Specific Policy Considerations (ii) Listed Buildings.
  - Policy 9 – Natural Heritage and Landscape A – Natural Heritage Designations and G – Landscape.
  - Policy 10 – Green Infrastructure (Paths, Open Spaces and Green Networks) A – Core Paths and Access.
  - Policy 14 – Transport, Travel and Road Network Infrastructure C – Road Network Infrastructure.
- Supplementary Guidance and Planning Policy Advice:
  - Energy (April 2017).
  - Natural Environment (April 2017).
  - Amended Core Paths Plan (September 2018).
  - Historic Environment and Cultural Heritage (April 2017).

## 6. Legal Aspects

### 6.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan ...”

### 6.2.

Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

### **6.3.**

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

## **7. Assessment**

### **7.1. Location and Site**

The proposed mast is located on rising ground approximately 1.8 kilometres inland (west) of Lyness, Hoy, as shown on the location plan attached as Appendix 1 to this report. The site is set at an elevation of 145 metres above Ordnance Datum (AOD), approximately 780 metres to the west of the locally distinctive historic building at Wee Fea. The setting is characterised as rugged, open hill land comprising heathland which is defined as the moorland hills character type by Scottish Natural Heritage. Access would be taken from the track network serving Wee Fea from Lyness. There are no residential properties within 1 kilometre of the proposed development and as such no significant amenity concerns are considered to accrue.

### **7.2. Proposal**

The application is supported by a Planning, Design and Access Statement and two photomontages. The proposed mast is in the form of a slender tubular-type mast, 90 metres in height and would be secured by guy wires affixed at six varying intervals along the height of the pole extending out to a maximum radius of 50 metres in four directions with anchor points at 25 and 50 metre intervals on the radius from the mast. The mast is of a monopole design, galvanised steel, 203 millimetres in diameter at base tapering to 152 millimetres at the top. The galvanised finish shall weather to a dull grey finish. The meteorological monitoring system, mounted on the mast to horizontal booms includes anemometers, wind vanes, data logger, solar panel, temperature sensor and antenna. The mast was initially proposed for a temporary period of three years, which was reduced to two years in the course of consideration of the application. The time period requested is to ensure robustness and accuracy of wind measurements at the site, and increase understanding of key wind characteristics, specifically wind speeds, wind direction, turbulence, gust speeds and wind shear.

### **7.3. Principle**

#### **7.3.1.**

Orkney Local Development Plan 2017 Policy 7D(vi) and part 4 of Supplementary Guidance: Energy provide general support for wind energy monitoring equipment.

Paragraph 4.07 of the Supplementary Guidance states that monitoring equipment is expected to be digital monitoring equipment unless it can be demonstrated that there are location-specific technical reasons why a physical anemometer mast is required.

### **7.3.2.**

The purpose of the mast is confirmed by the applicant within the submitted planning statement as primarily to take wind speed and direction measurements at various heights over a period of time to provide an accurate understanding of key wind characteristics of the site, specifically wind speeds, wind direction, turbulence, gust speeds and wind shear. The recording and understanding of wind characteristics would be used to assess the suitability of the site for wind energy development. It is noted that this matter was also raised by the objector.

### **7.3.3.**

The use of less visually obtrusive alternative wind monitoring technologies in line with the aim of paragraph 4.07 of Supplementary Guidance: Energy, such as ground-mounted laser technology, has been discussed with the developer. The developer has stated that such technology is relatively new and unreliable, and financial institutions and turbine suppliers are less willing to use wind data collected by technology other than a met mast.

### **7.3.4.**

The developer raises issues regarding the project financing and has highlighted that fixed met masts provide the industry with a widely accepted wind measurement method. Financing the development is not a planning matter. A combination of environmental and climatic conditions are, however, also noted by the developer as a rationale for the nature of data collection by virtue of a fixed anemometer mast: "At Wee Fea, remote sensing data capture rates are likely to be affected by the regular adverse weather conditions experienced. It is difficult to accurately operate remote sensing devices under fog and rain conditions because of the unpredictability and non-control of the weather, the moist air acts as a screen for the infrared radiation. Both fog and rain reduce laser intensity by absorption and diffusion phenomena of the laser beam by the small water droplets. Fog and rain act then as a screen on remote sensing devices sensors that limit their capabilities and detection range, this poses a risk to project value and reduction in renewable energy benefits for any future windfarm proposal because of design and layout due to elevated measurement uncertainties. Moreover, the terrain is relatively complex. Remote sensing devices assume homogeneous flow through their measurement volume, and complex terrain can invalidate this assumption. There is therefore a high risk that remote sensing data from this site would be rejected by independent consultants".

### **7.3.5.**

The developer has therefore provided some technical information justifying why digital monitoring equipment has not been selected for this site, noting climatic considerations at this location. Policy 7 of the Orkney Local Development Plan 2017 allows for anemometer masts in situations where it can be demonstrated that there are locational-specific technical reasons why a physical anemometer mast is required.

### **7.3.6.**

This proposal was initially submitted for a temporary period of three years. Policy 7 Energy, Part D (vi) states that anemometer masts will be supported subject to the other development plan policies and other material considerations and that permission will normally be limited to a maximum two year period unless the need for a longer period has been demonstrated. The developer has agreed to reduce the requested period for the temporary consent to two years in line with Policy 7.

### **7.3.7.**

Site selection is a consequence of balancing several different factors, not least to ensure that a proposed anemometer is in such a location as to ensure that the data collected is meaningful to the purpose for which the data is intended. The developer has identified an elevated site which is in proximity to track infrastructure, is set distant from residential property and apart from watercourses, drainage ditches, features of historic, ecological or environmental value albeit that the site is within the bounds of a Local Nature Conservation Site. The location avoids placement within either the Hoy and West Mainland National Scenic Area or the Hoy Wild Land area. Whilst no alternative site locations are discussed, consideration of the planning merits of the application must be considered in relation to the application as presented.

## **7.4. Landscape and Visual Impact**

### **7.4.1**

The proposed development is set on rising land above the coastal fringe by Lyness, at 145 metres AOD with the trig point in the hill at Wee Fee, noted at 175 metres to the north-west. Other hills and high points in the vicinity to the north and west include Sky Fea at 244 metres, Genie Fea at 236 metres and Bakingstone Hill at 152 metres. To the south, separated from the site by the valley of the Burn of Ore, is Binga Fea at 154 metres. The proposed location is significantly south of the boundary of the National Scenic Area being in excess of 4.7 kilometres from the nearest point of this designation which covers the north of Hoy. The site is near the bounds of the Hoy Wild Land Area which passes through the hill at Wee Fee to the summit of Binga Fea.

### **7.4.2.**

The landscape setting is a key consideration and, whilst it can be demonstrated that the proposed development is situated outwith both the National Scenic Area and Wild Land Area, it has the potential to have a negative impact upon the experience of these areas. The scale of the proposed mast on elevated ground is such that it is recognised that the mast will be prominent within the landscape. This is demonstrated in the submitted photomontages from two key viewpoints: at the junction of the B9047 and B9048, and on the B9047 West of Ore Farm. The presence of Wee Fee in both photomontages aids perspective and is an otherwise obvious feature within the landscape which around that elevation is dominated by the low hills.

### **7.4.3.**

Whilst the developer has stated within the supporting Planning, Design and Access Statement that the impact on the landscape will be 'minimal', this possibly underplays the impact of such a tall, albeit slender, structure from localised views, which from many viewpoints will be in a skyline situation. It is however accepted that the visual impact of the proposal will diminish with distance and in the wider landscape it is not likely to be perceived as a dominant feature. The static and relatively short-term nature of the development is also a consideration which, combined with the physical characteristics of the proposed mast, would, on balance, be acceptable and therefore considered in accordance with Policies 1, 2 and 7 of the Orkney Local Development Plan 2017.

## **7.5. Aviation**

Neither Highlands and Islands Airports Limited (HIAL) nor Kirkwall Airport senior pilot have identified the requirement for aviation lighting and have not indicated any safeguarding issues in relation to Kirkwall Airport. It is however noted that HIAL has stated that, as a minimum, all proposed developments over 90 metres in height for Off Route Airspace should be notified to the Civil Aviation Authority (CAA). This development does not exceed 90 metres in height. The Ministry of Defence (MoD) also has an interest in structures at height for the purpose of military aviation. As a precautionary approach, a condition would be attached, requiring the developer to advise MoD, CAA and NATS (air traffic control) of the development, noting that this may require further actions in the interests of aviation safety.

## **7.6. Historic Environment**

The former naval headquarters and communications centre (HMS Prosperpine) at Wee Fea is a category A Listed Building. This structure is situated 780 metres from the proposed development. Historic Environment Scotland was consulted and has no concerns. Whilst the context and setting of this historic building within the landscape is very wide, when seen from key viewpoints it is considered that the proposed development, given the separation distance, the slender static nature of the proposed anemometer mast and the temporary nature of the proposed development, would have limited impact on either the character or setting of this nationally important historic building.

## **7.7. Natural Heritage**

### **7.7.1.**

The development is situated approximately 600 metres from Hoy Special Protection Area (SPA) which is classified for its bird interests. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters, The Conservation of Habitats and Species Regulations 2017 apply. Consequently, the Council is required to consider the effect of the proposal on Hoy SPA before it can be consented (commonly known as Habitats Regulations Appraisal). SNH has advised that in their view the proposal is likely to have a significant effect on red-throated diver. Consequently, the Council is required to carry out an Appropriate Assessment in

view of the site's conservation objectives for its qualifying interests. This has been undertaken and is attached as Appendix 2 to this report. The outcome of this appraisal, as informed by SNH, is that the use, and on the basis of strict accordance with mitigation in the form of bird flight deflectors on all meteorological mast guy wires, and the avoidance of construction/site clearance works in the bird breeding season, the proposal would not adversely affect the integrity of the site. This would be secured by condition.

#### **7.7.2.**

The development is located within the bounds of Hoy and North Walls SSSI Moorland Fringes Local Nature Conservation Site (LNCS) known for its protected blanket bog and breeding upland moorland birds, which is considered as a locally important site as noted in Policy 9 of the Orkney Local Development Plan 2017. The site has also been identified as being in an area of Class 1 nationally important carbon-rich soil. Whilst no consultee with a natural heritage remit has formally objected to the development, comment has been received from SNH, RSPB Scotland and Development and Marine Planning, Environment, with concerns regarding the chosen location given the natural heritage interests. This is also a matter raised within the objection.

#### **7.7.3.**

The heathland habitats of the LNCS are vulnerable to disturbance, especially when ground conditions are wet; they are also likely to be underlain by peat and carbon-rich soils. For this reason, additional information would be sought by planning condition in relation to project timing, transportation impacts beyond existing access infrastructure and the nature of machinery to be employed on site. The information should clearly demonstrate how the unnecessary disturbance, degradation and erosion of peat, soils, as well as damage to or loss of sensitive habitat, would be avoided and, where this is not possible, minimised and mitigated. A peatland management plan would therefore be required and secured by appropriate condition.

#### **7.7.4.**

The issue of timings of significant works in relation to construction, and site clearance upon cessation, is an issue not just to the physical impacts to the habitat but to the wildlife species using this habitat. Consideration of the bird breeding season is raised by SNH, RSPB Scotland and Development and Marine Planning, Environment. It is proposed that the erection of the mast and associated infrastructure, as well as its removal, should be undertaken outwith the main breeding season, from 1 April until 31 August. This is also considered as mitigating effects on the qualifying species of Hoy SPA. This can be secured by appropriate condition.

#### **7.7.5.**

Matters in relation to construction and clearance of site and the nature of such works in relation to managing issues arising that may impact upon the natural environment can be achieved through various methodologies or combinations thereof, eg works avoiding bird breeding season, avoiding uncovered excavations/ensuring exit ramps in excavations, avoiding disturbance to watercourses, pre-work inspection and staff



awareness of natural heritage interests together with appropriate site restoration upon cessation. It is fully acknowledged that the proposed development will have an impact upon the natural environment, however it is considered that the nature, extent and duration of the development can be adequately addressed by condition and informative, where necessary, to ensure that there are no significant effects on the natural environment. The development, on balance is considered to accord with Policy 9 and relevant Supplementary Guidance.

## **7.8. Road Access**

The development will use existing road network infrastructure with no stated alterations required to accommodate the scale of vehicles or equipment required for the installation, maintenance or removal of the structure. Beyond the public transport infrastructure, matters in relation to public access and use of the Wee Fea core path are considered below.

## **7.9. Public Access**

A Core Path, H7 (Wee Fea), utilises the track serving the historic remains at Wee Fea. The proposed anemometer mast is set at a distance from the core path. It is however recognised that increased vehicular use of the track serving Wee Fea, which comprises the Core Path, will occur, noted by the developer as extending up to three days with the use of one or two vehicles with trailers to deliver equipment and personnel to site. Beyond the temporary periods of construction/removal and management and maintenance in the interim, the volume of additional vehicles that may be encountered on this track would be limited with negligible impact to the overall enjoyment of the Core Path. The visual impact of the proposed development to users of the core path are likewise considered as acceptable, noting the intervening distance, slender and static appearance of the anemometer mast allied to the temporary nature of the proposed development. It is therefore considered that there are no unacceptable adverse impacts accruing in relation to the use and enjoyment of the core path or wider statutory access rights, an appropriate advisory is considered as a reasonable approach in context. It is considered therefore that the development would comply with Policy 10A Core Paths and Access.

## **8. Conclusion and Recommendation**

### **8.1.**

For the avoidance of doubt, the proposed development would not constitute a renewable energy development; therefore, renewable energy policies are not relevant to the consideration. The decision of the current application has no weight in any decision on the potential for the site to be developed in future and does not prejudice any future decision. Supplementary Guidance: Energy clarifies that approval of monitoring equipment is not an indication that any subsequent wind farm application would be considered acceptable.

### **8.2.**

The mast is a tall slender structure, set within a rugged and locally significant landscape at height. The proposed development is temporary in nature with limited

duration of construction and removal, with intermittent access required for management and maintenance purposes. The development whilst in an elevated and arguably prominent situation, is not considered to have a significantly detrimental impact upon on the landscape, natural or built heritage during the period of development. Appropriate planning conditions can be applied to safeguard natural heritage, landscape and potential aviation interests whilst ensuring the temporary duration of the development and site restoration upon cessation.

### **8.3.**

All relevant matters have been considered when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Orkney Local Development Plan 2017 and is acceptable in terms of all other applicable material considerations. On balance the proposal would comply with Orkney Local Development Plan 2017 policies 1, 2, 7D(vi), 8B, 9A, 9G, 10 and 14; part 4 of Supplementary Guidance: Energy (March 2017); and Supplementary Guidance: Natural Environment (April 2017). The objection does not raise issues of sufficient weight to recommend refusal. Accordingly, the application is **recommended for approval**, subject to the conditions listed in Appendix 3.

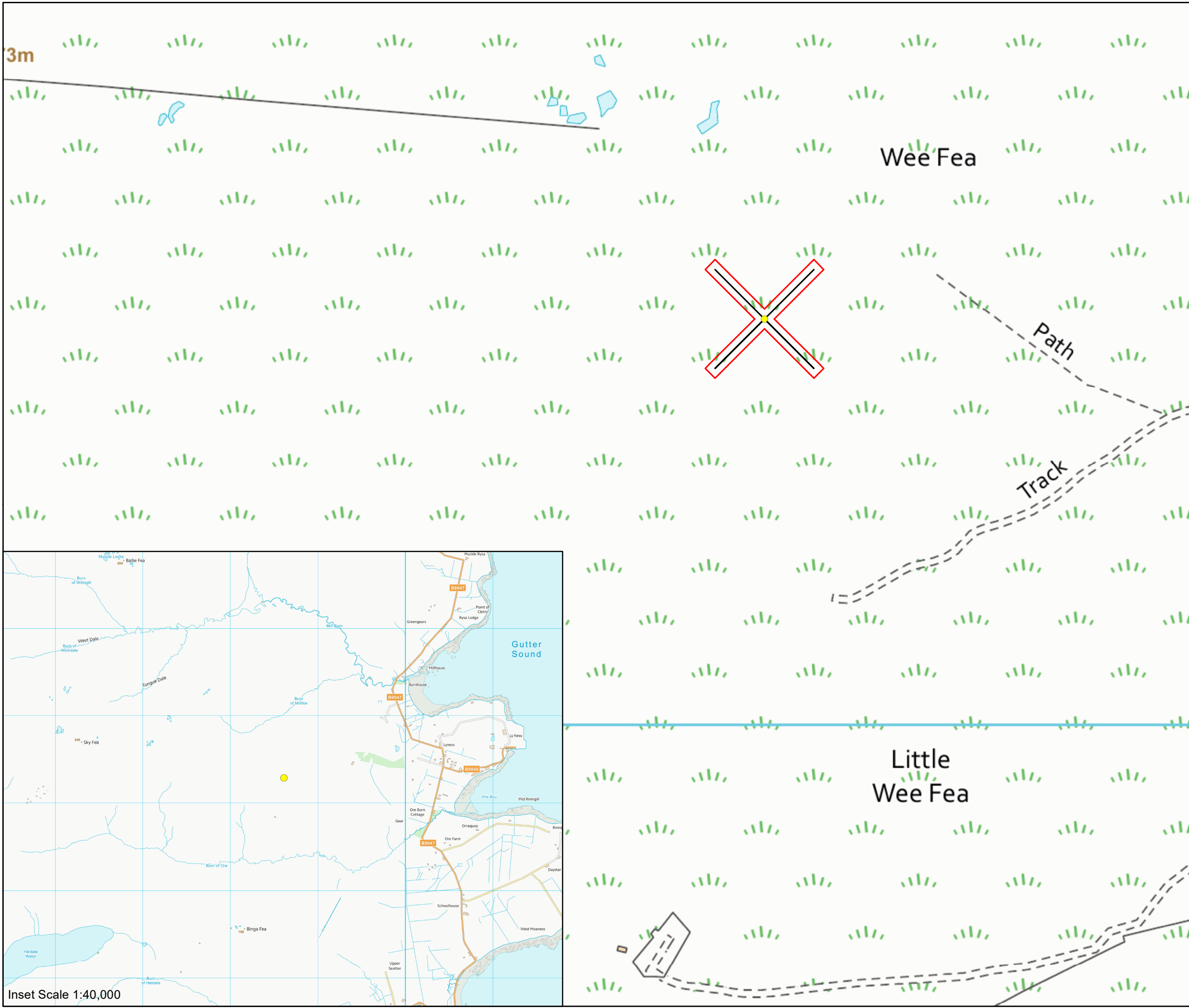
## **9. Contact Officer**

David Barclay, Senior Planning Officer, extension 2502, Email [david.barclay@orkney.gov.uk](mailto:david.barclay@orkney.gov.uk)

## **10. Appendices**

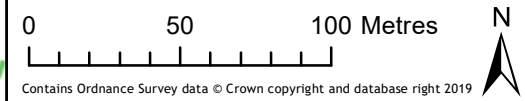
- Appendix 1: Location Plan.
- Appendix 2: Appropriate Assessment.
- Appendix 3: Planning Conditions.

3m



- Legend**
- Met Mast
  - Guy Wires
  - Proposed Application Site Boundary

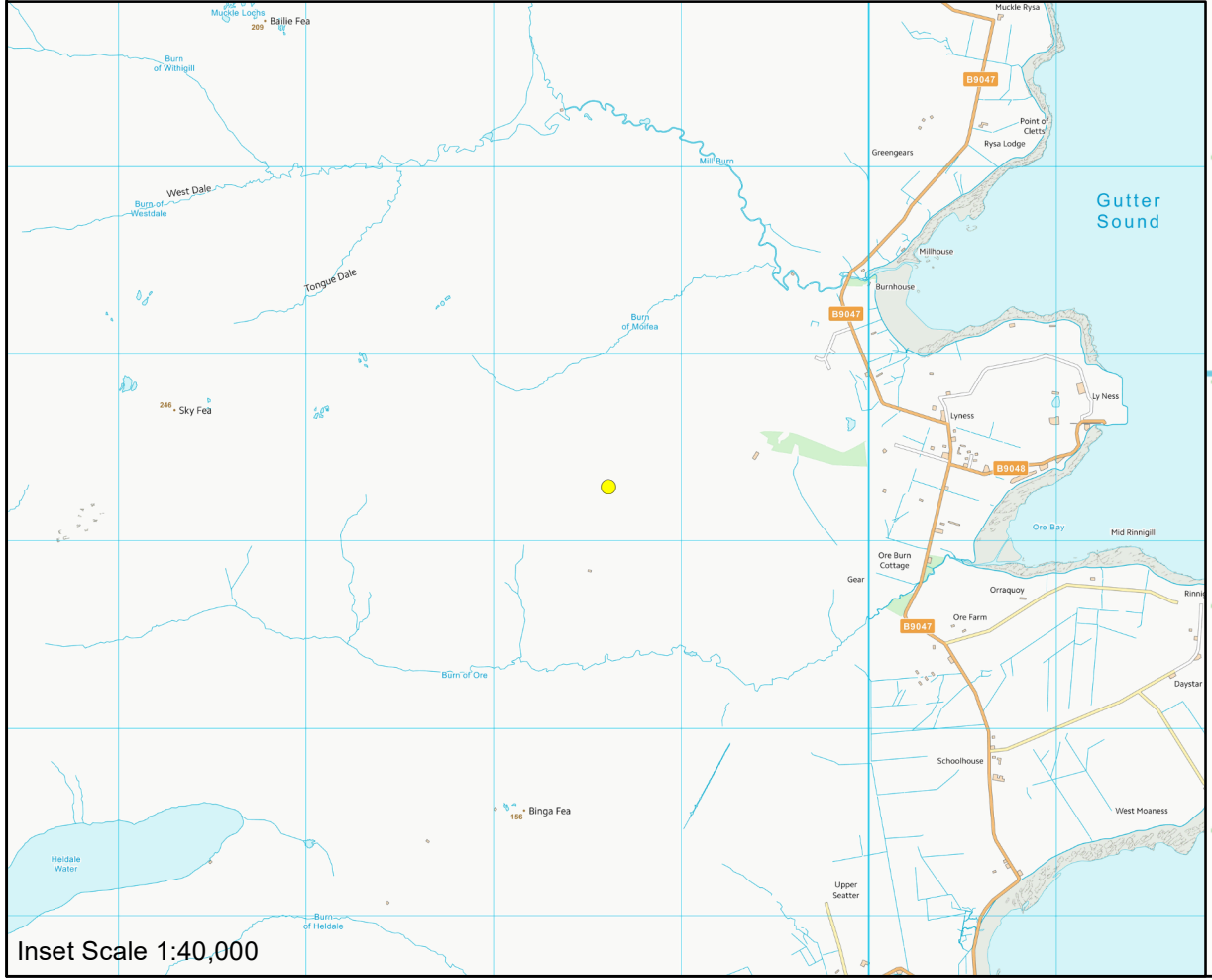
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**Project** Hoy Met Mast  
**Client** Orkney Island Council  
**Title** Met Mast Site Location Plan  
**Figure No.** 2  
**Scale** 1:2,500 @A3  
**Doc. Ref.** 13048-003



Inset Scale 1:40,000



## **Appendix 2**

### **Erect an Anemometer Mast for a Temporary Period of Two Years (Maximum Height 90 metres) at Wee Fea (Land Near), Lyness, Hoy, Orkney**

#### **Consideration of Proposals affecting European Sites.**

Proximity to the Hoy Special Protection Area (SPA) means that the requirements of The Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters, The Conservation of Habitats and Species Regulations 2017 apply. Orkney Islands Council (OIC) is required to consider the effect of the proposal on the SAC before it can be consented (commonly known as a Habitats Regulations Appraisal).

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the conservation interests for which the area has been designated. The need for appropriate assessment extends to plans or projects outwith the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- Determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not:
- Determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then:
- Make an appropriate assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, and there are no alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required. The proposal is to erect an anemometer mast for a temporary period of two years (maximum height 90 metres) which has the potential to impact on the qualifying interests (see Appendix 1). The Council is therefore required to undertake an Appropriate Assessment of the implications of the proposal for Hoy SPA, Annex 1, in view of the site's conservation objectives.

#### **Appropriate Assessment.**

While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies. In this case, the Appropriate Assessment is informed by information supplied by SNH.

**Appraisal.**

In its response to the Council, SNH has advised that in their view this proposal will not adversely affect the integrity of the Hoy SPA subject to appropriate mitigation as identified by the developer and as can be secured by planning condition were the application to be subject to approval. OIC has undertaken an appraisal (see Appendix 1) based on the information supplied.

**Decision.**

On the basis of this appraisal, it can be concluded that the proposal will not significantly adversely affect the integrity of the Hoy SPA subject to the recommended mitigation.

## **Annex 1**

### **Orkney Islands Council's Appraisal of the Proposal.**

- The proposal is not directly connected with or necessary to site management for conservation.
- The proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; therefore:
- An Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives is provided below.

**Qualifying Interest** (N.B. All figures relate to numbers at the time of classification except where amended by the 2001 SPA Review):

Hoy SPA qualifies under Article 4.1 by regularly supporting populations of European importance of the Annex 1 species: red-throated diver *Gavia stellata* (58 territories, 6% of the GB population) and peregrine *Falco peregrinus* (6 pairs, 0.5% of the GB population).

Hoy SPA further qualifies under Article 4.2 by regularly supporting populations of European importance of the migratory species: great skua *Stercorarius skua* (1,900 pairs, 14% of the world biogeographic population).

Hoy SPA also qualifies under Article 4.2 by regularly supporting in excess of 20,000 individual seabirds. It regularly supports 120,000 seabirds including nationally important populations of the following species: Atlantic puffin *Fratercula arctica* (3,500 pairs, 0.7% of the GB population); black-legged kittiwake *Rissa tridactyla* (3,000 pairs, 0.6% of the GB population); Arctic skua *Stercorarius parasiticus* (59 pairs, 2% of the GB population); Northern fulmar *Fulmarus glacialis* (35,000 pairs, 6% of the GB population); great black-backed gull *Larus marinus* (570 pairs, 3% of the GB population); common guillemot *Uria aalge* (13,400 pairs, 2% of the GB population).

### **Conservation Objectives for the Hoy SPA.**

To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained.

To ensure for the qualifying species that the following are maintained in the long term:

- Population of the species as a viable component of the site.
- Distribution of the species within site.
- Distribution and extent of habitats supporting the species.
- Structure, function and supporting processes of habitats supporting the species.
- No significant disturbance of the species.

## Qualifying Species:

- Arctic skua (*Stercorarius parasiticus*)\*.
- Fulmar (*Fulmarus glacialis*)\*.
- Great black-backed gull (*Larus marinus*)\*.
- Great skua (*Catharacta skua*).
- Guillemot (*Uria aalge*)\*.
- Kittiwake (*Rissa tridactyla*)\*.
- Peregrine (*Falco peregrinus*).
- Puffin (*Fratecula arctica*)\*.
- Red-throated diver (*Gavia stellata*).
- Seabird assemblage.

\* Indicates assemblage qualifier only.

## **Orkney Islands Council's Appraisal of the Effect of the Proposal on Site Integrity.**

Given the nature of the proposed development a key issue is the potential collision risk posed by the guyed mast. With reference to the SNH publication 'Assessment and mitigation of impacts of power lines and guyed meteorological masts on birds' Guidance, version 1, July 2016 there is a mortality risk through collision with the guy wires. This can occur when a bird flies into a wire and is killed either from the impact, from hitting the ground, or from injuries sustained in the process. There is also the matter of displacement, where birds are excluded from areas that were suitable for them before the development, deterring the birds from using their normal routes to feeding or roosting grounds.

There are a number of typical considerations including avoiding protected areas, which are designated for their bird interest, avoiding areas known to be used as flight paths between roosting and feeding areas and taking into account topographical features, such as valleys, which may be used as flight paths. The proposed anemometer mast is a standalone feature with limited land-take / extent of development. The mast is also placed in an elevated situation and outwith the bounds of the SPA. Given the habit of the identified qualifying interests at potential risk, displacement from feeding or roosting habitat is not considered to be significant however the possible risk arises in relation to flight paths between feeding or roosting grounds. SNH has identified the risk of collision for qualifying species of the Hoy SPA, specifically Red-throated divers. This risk is considered to be potentially significant and that appropriate mitigation is advised.

Marking meteorological masts through the use of bird deflectors is acknowledged as standard practice with SNH guidance indicating that 'Masts should normally be marked at and up to 2 km away (depending on the range of the bird concerned) from sites protected for or containing roost, breeding and foraging areas of collision susceptible species'.

The possible use of bird deflectors as a means of mitigation has been identified by the developer. Bird flight deflectors make the mast guy wires more visible to birds, therefore reducing the risk of collision which could lead to their injury or death. SNH has advised that the risk to qualifying species can be mitigated through the use of bird deflectors.

SNH concludes that 'if the proposal is undertaken strictly in accordance with the following mitigation, then the proposal will not adversely affect the integrity of the site:

Bird flight deflectors should be fitted to all meteorological mast guy wires at 5m intervals. Stops or clamps should be fitted to the guy wires to prevent the deflectors slipping down the wires. The mast should be inspected and maintained each year to ensure the deflectors remain in place. In this case, inspections should take place prior to the breeding bird season (15 April to 15 August inclusive).'

SNH has advised against carrying out construction activities within the bird breeding season as has the Environment Officer within OIC Development and Marine Planning. It is considered that additional mitigation to protect against negative impacts to qualifying species can be achieved by restricting such activity through construction and, upon cessation, site clearance.

No impacts to habitats within the SPA are considered to arise as a consequence of the proposal.

### **Cumulative Impacts.**

Cumulative impacts arising are not indicated by SNH nor Environment within OIC Development and Marine Planning as a factor within this consideration. It is however noted that the use of bird deflectors would mitigate the risk to qualifying bird interests no matter which protected area is potentially impacted given the potential range and habit of species which may conceivably be subject to impact.

### **Conclusion.**

The proposal is likely to have a significant effect on the red-throated diver, a qualifying species of the conservation objectives of the Hoy Special Protection Area. Mitigation has been identified by the developer which has been considered by consultees as appropriate and should be secured were the development to proceed. It is therefore concluded that the combination of restriction of construction/site clearance works to periods outwith the bird breeding season and use of bird flight deflectors is sufficient to mitigate identified impacts, thereby safeguarding the integrity of Hoy Special Protection Area.





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**nature.scot**

David Barclay  
Orkney Islands Council  
Development Management

**BY EMAIL:** [planningconsultation@orkney.gov.uk](mailto:planningconsultation@orkney.gov.uk)

Our ref: CDM156323  
Your ref: 19/286/PP

30 July 2019

Dear Mr Barclay,

**19/286/PP – Erect an anemometer mast for a temporary period of up to three years (max height 90m) – land near Wee Fea, Lyness  
Town and Country Planning (Scotland) Act 1997**

Thank you for your consultation dated 26 July 2019 regarding the erection of an anemometer mast on land near Wee Fea, Lyness.

### **Summary**

This proposal could be progressed with appropriate mitigation. However, because it could affect internationally important natural heritage interests, **we object to this proposal unless it is made subject to conditions so that the works are done strictly in accordance with the mitigation detailed in our appraisal below.**

If the planning authority intends to grant planning permission against this advice without the suggested mitigation, you must notify Scottish Ministers.

### **Appraisal of the impacts of the proposal and our advice Hoy Special Protection Area (SPA)**

The proposal is approximately 600 metres from Hoy SPA classified for its bird interests.

The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters, The Conservation of Habitats and Species Regulations 2017 apply. Consequently, Orkney Islands Council is required to consider the effect of the proposal on Hoy SPA before it can be consented (commonly known as Habitats Regulations Appraisal). The SNH website has a summary of the legislative requirements (<https://www.snh.scot/professional-advice/safeguarding-protected-areas-and-species/protected-species/legal-framework/habitats-directive-and-habitats-regulations>).

In our view, this proposal is likely to have a significant effect on red-throated diver. Consequently, Orkney Islands Council is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests. To help you do this, we advise that in our view on the basis of the information provided, if the proposal is undertaken

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strictly in accordance with the following mitigation, then the proposal will not adversely affect the integrity of the site:

- **Bird flight deflectors should be fitted to all meteorological mast guy wires at 5m intervals. Stops or clamps should be fitted to the guy wires to prevent the deflectors slipping down the wires. The mast should be inspected and maintained each year to ensure the deflectors remain in place. In this case, inspections should take place prior to the breeding bird season (15 April to 15 August inclusive).**

The appraisal we carried out considered the impact of the proposals on the following factors:

- Bird flight deflectors will make the mast guy wires more visible to birds, therefore reducing the risk of collision which could lead to their injury or death.

### **Breeding birds**

Given the suitability of the surrounding area for breeding birds we advise that construction works are undertaken outside the bird breeding season. If works are undertaken during the breeding season, pre-construction surveys and a species protection plan for breeding birds would be required.

Please let Alexander Macdonald ([Alexander.Macdonald@nature.scot](mailto:Alexander.Macdonald@nature.scot)) know if you require any further information or advice from us in relation to this application.

Yours sincerely,

**David Mackay**  
Operations Manager  
Northern Isles and North Highland

## Appendix 3

### Conditions.

01. This planning permission shall expire and cease to have effect after a period of two years from the date of commencement of development. Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission and reinstated, in accordance with a Scheme of Decommissioning and Restoration as required by condition 02.

Reason: In recognition of the temporary nature of the proposed development, to enable the Planning Authority to reassess the impact of the development over that temporary period, and to secure removal and restoration.

02. No development shall commence until a Scheme of Decommissioning and Restoration for the application site has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the site shall be cleared, and land reinstated in accordance with the approved Scheme of Decommissioning and Restoration.

Reason: To ensure that the restoration of the site is carried out in an appropriate and environmentally acceptable manner.

03. No development shall commence until a natural heritage survey for all protected species and associated habitats has been undertaken and a report of the survey submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and an area of 100 metres in all directions from the boundary of the application site. The survey report shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. This shall also be undertaken upon cessation of development. Thereafter, the development shall be carried out in accordance with any mitigation measures contained within the approved survey report and associated timescales.

Reason: To ensure that the site and its environs are surveyed, and the development has no adverse impact on protected species or habitat.

04. All site works associated with the development, including erection and removal of the mast and associated infrastructure hereby approved, shall be undertaken outwith the main bird breeding season, namely 1 April to 31 August inclusive.

Reason: Due to the proximity to protected sites and bird features that may utilise the area near the coast.

05. Bird flight deflectors shall be fitted to all meteorological mast guy wires, fitted at five metre intervals. Stops or clamps shall be fitted to the guy wires to prevent the deflectors slipping. The mast shall be inspected and maintained annually to ensure the deflectors remain in place, with any damaged or lost deflectors replaced. In this case, any annual inspections shall be carried out prior to the breeding bird season, commencing 1 April.

Reason: The use of bird flight deflectors will make the mast guy wires more visible to birds, therefore reducing the risk of collision which could lead to their injury or death.

06. Prior to entering the site, all personnel involved in the development should be made aware that otters may be present in the area. The following measures shall be carried out to avoid disturbance:

- Access to open-water habitats shall be safeguarded at all times and impacts to traditional routes between such areas, such as drainage ditches, during the construction phase shall be minimised.
- Any temporarily exposed open pipe system shall be capped in such a way as to prevent otters gaining access, as may happen when contractors are off-site.
- Open pits shall be covered at night, and exit ramps provided in steep-sided trenches. All excavations shall be checked daily to ensure that no wildlife has become trapped.

Reason: To ensure measures are taken to protect a European Protected Species.

07. Should statutorily protected species be found within or within 100 metres of the application site at any time during the construction stage, including site clearance prior to the cessation date, all work shall cease immediately, and written notification shall be provided by the developer to both the Planning Authority and Scottish Natural Heritage. Development shall only recommence once approval for recommencement has been issued, in writing, by the Planning Authority and any mitigation measures required as conditions of such approval shall be implemented in full and in accordance with the approved timescales.

Reason: To ensure that the development does not have an adverse impact on protected species.

08. No development shall commence until a peatland management plan, supported by an appropriate peat survey, has been submitted to, and approved in writing by, the Planning Authority. The plan should clearly demonstrate how any unnecessary disturbance, degradation or erosion of peat, soils, or damage to or loss of sensitive habitat, will be avoided and, where this is not possible, minimised and mitigated. This plan shall also provide details of project timing; how the mast and ancillary equipment will be transported to the site; and the type of machinery to be used. Thereafter the development shall be undertaken in accordance with the approved details.

Reason: To minimise disturbance to nature conservation interests within the application site and ensure the protection of protected species and habitats.

09. The developer shall notify the Civil Aviation Authority (CAA), NATS and Ministry of Defence (MoD) Defence Infrastructure Organisation prior to installation of the mast and shall provide to those bodies:

- The precise location, including grid co-ordinates, of the development.
- Anticipated date of commencement of construction.

- Anticipated date of completion of construction.
- The height above ground level of the tallest structure.
- The maximum extension height of any construction equipment.

If aviation warning lighting is required by any of these bodies, full details of that aviation warning lighting shall be submitted to, and agreed in writing by, the Planning Authority prior to its installation. No development shall commence until the CAA, NATS and MoD Defence Infrastructure Organisation provide confirmation of no objection to the development, and all confirmations are provided to the Planning Authority. Any mitigation or other measures shall be submitted to, and agreed in writing by, the Planning Authority prior to being carried out.

Reason: To ensure that the CAA, NATS and MoD are made aware of the development, and so any aviation warning lighting required is identified and agreed, in the interests of aviation safety.