

Minute

Local Review Body

Tuesday, 3 July 2018, 15:45.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors Owen Tierney, Stephen Sankey, Alexander G Cowie, Norman R Craigie, Robin W Crichton, David Dawson, John A R Scott, Graham L Sinclair, Duncan A Tullock and Kevin F Woodbridge.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Roddy Mackay, Planning Advisor.
- Katharine McKerrell, Legal Advisor.

Apologies

- Councillor Barbara Foulkes.
- Councillor Magnus O Thomson.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Owen Tierney.

1. Planning Application (17/528/TPP)

Proposed Erection of Wind Turbine at Craiglands, Skidge Road, Birsay

Councillor Stephen Sankey stated that, as an objector to the current wind farm application at Hesta Head, South Ronaldsay, which remained to be determined, he would withdraw from discussions on any wind energy proposals, to avoid the possibility that any comments he made regarding the application of policies relating to wind turbine development would directly or indirectly influence other elected members in the future determination of the Hesta Head application, and he left the meeting at this point.

After consideration of a report by the Chief Executive, copies of which had been circulated, the Local Review Body:

Noted:

1.1. That planning permission for the proposed erection of a wind turbine at Craiglands, Skidge Road, Birsay, was refused by the Appointed Officer on 29 March 2018, for the reasons outlined in section 3.2 of the report by the Chief Executive.

1.2. That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 1.1 above, be reviewed.

1.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site, referred to at paragraph 1.1 above, at 14:30 on 3 July 2018.

After hearing a report from the Planning Advisor, the Local Review Body:

Resolved, in terms of delegated powers:

1.4. That the review be determined without further procedure.

Councillor Robin W Crichton, seconded by Councillor Owen Tierney, moved that the decision of the Appointed Officer, to refuse the application for the proposed erection of a wind turbine at Craiglands, Skidge Road, Birsay, be upheld.

Councillor John A R Scott, seconded by Councillor David Dawson, moved an amendment that planning permission be granted in respect of the proposed erection of a wind turbine at Craiglands, Skidge Road, Birsay, as, in their opinion:

(1) There was capacity within the landscape for a smaller scale turbine development.

(2) The cumulative impact of the proposed turbine in conjunction with other vertical structures in the area would be limited.

(3) A single small-scale turbine could be absorbed without a significant adverse cumulative landscape or visual impact on the existing landscape and would therefore not result in a change in the wind energy landscape type from a "landscape with occasional wind turbines" to a "landscape with wind turbines", as defined in the Landscape Capacity Assessment for Wind Energy in Orkney.

And, accordingly, the proposed development would comply with the following:

- Orkney Local Development Plan 2017:
 - Policy 7 – Energy (Part D Onshore Wind Energy Development).
 - Policy 9 – Natural Heritage and Landscape (Part A Landscape).
- Development Criterion DC2 – Landscape and Visual Impact of Supplementary Guidance: Energy.
- Landscape Capacity Assessment for Wind Energy in Orkney.

On a vote being taken 5 members voted for the amendment and 4 for the motion, and the Local Review Body:

Resolved, in terms of delegated powers:

1.5. That planning permission be granted in respect of the proposed erection of a wind turbine at Craiglands, Skidge Road, Birsay, subject to the conditions attached as Appendix 1 to this Minute.

1.6. That the Local Review Body's reason for granting planning permission was that, in the Local Review Body's opinion:

- There was capacity within the landscape for a smaller scale turbine development.
- The cumulative impact of the proposed turbine in conjunction with other vertical structures in the area would be limited.
- A single small-scale turbine could be absorbed without a significant adverse cumulative landscape or visual impact on the existing landscape and would therefore not result in a change in the wind energy landscape type from a "landscape with occasional wind turbines" to a "landscape with wind turbines", as defined in the Landscape Capacity Assessment for Wind Energy in Orkney.

And, accordingly, the proposed development would comply with the following:

- Orkney Local Development Plan 2017:
 - Policy 7 – Energy (Part D Onshore Wind Energy Development).
 - Policy 9 – Natural Heritage and Landscape (Part A Landscape).
- Development Criterion DC2 – Landscape and Visual Impact of Supplementary Guidance: Energy.
- Landscape Capacity Assessment for Wind Energy in Orkney.

2. Conclusion of Meeting

At 16:05 the Chair declared the meeting concluded.

Signed: Owen Tierney.

Appendix 1.

Proposed Erection of Wind Turbine at Craiglands, Skidge Road, Birsay (17/528/TPP)

Grant subject to the following conditions:

01. The colour of the wind turbine hereby approved shall be matt grey/metallic for the tower and matt grey (RAL 7000) for the nacelle and blades, unless otherwise agreed in writing by the Planning Authority.

No logos or branding shall be used on the wind turbine.

Reason: To minimise the visual impact of the development and to protect the visual amenity of the area.

02. Throughout the life of the development, noise generated by the wind turbine hereby permitted, shall not exceed 35dB(A) L90, 10 min at wind speeds not exceeding 10 m/s as measured not less than 10m from the facade of any noise sensitive property. Measurements shall be made in accordance with the guidance in the supplementary guidance notes to the planning obligation, chapter 8 of the publication "The Assessment and Rating of Noise from Wind Farms" (ETSU-R-97, Department of Trade and Industry, September 1996).

Note: The property of Craiglands, Birsay, Orkney KW17 2ND, is not considered to be a noise sensitive property in relationship to the turbine hereby approved due to the owners' financial interest in the turbine. Any separation of the ownership of the house and the turbine, including occupation of the house and premises by an individual or party without a financial interest in the turbine, is likely to cause noise issues which may result in the turbine no longer being able to comply with this condition.

Reason: To protect the residents of nearby residential properties from disturbance as a result of noise generated during operation of the development.

03. Should any complaints be received in respect of noise levels, the developer shall fully investigate these complaints and, to establish noise levels at any affected property, shall undertake noise monitoring which shall be carried out by a suitably qualified noise expert or consultancy previously agreed in writing by the Planning Authority and which shall be carried out by the method stated in section 2.0 "Procedure to be followed in the event of a complaint" page 102 of the publication "The Assessment and Rating of Noise from Wind Farms" (ETSU-R-97, Department of Trade and Industry, September 1996).

Reason: To protect the residents of nearby residential properties from disturbance as a result of noise generated during operation of the development.

04. Should any noise monitoring undertaken in accordance with condition 03 above demonstrate that the noise thresholds in condition 02 are being exceeded, the developer shall submit a scheme of mitigating measures to the Planning Authority for written agreement within three months of the breach being identified. The agreed mitigating measures shall be implemented within three months of the written

agreement or within any alternative timescale agreed in writing by the Planning Authority and thereafter retained throughout the life of the development unless otherwise agreed, in writing, by the Planning Authority.

Reason: To protect the residents of nearby residential properties from disturbance as a result of noise generated during operation of the development.

05. Where noise measurements are carried out in accordance with condition 03 above, the assessment of measured noise emission levels should be referenced to derived (not measured) 10m height above ground level wind speeds. The article "Prediction and assessment of wind turbine noise" from the Institute of Acoustics bulletin April 2009 Vol. 34 and the document published by the Institute of Acoustics "The Good Practice guide to the Application of ETSU-R-97 for the assessment and Rating of Wind Turbine Noise" should be referred to in regard to this matter.

Reason: For avoidance of doubt regarding a technical matter on the measurement of noise levels and to follow recognised current good practice.

06. Should any complaints be received in respect of disruption to Radio/TV reception, the developer shall fully investigate these complaints and provide a satisfactory solution within a timescale specified in writing by the Planning Authority, details of which shall be submitted to the Planning Authority for approval in writing. The approved details shall thereafter be implemented in accordance with the terms specified by the Planning Authority and retained throughout the life of the development unless otherwise agreed, in writing, by the Planning Authority.

Reason: To protect the residents of nearby residential properties from unacceptable levels of disruption to Radio/TV reception.

07. If the wind turbine hereby approved is not operational and producing energy for a period of one year, then the wind turbine, foundation and any other associated equipment shall be removed and the site restored to its previous condition and use, to the satisfaction of the Planning Authority.

Reason: To protect the visual amenity of the area.

08. Prior to commencement of any works on the hereby approved development, confirmation of the date construction starts and ends, the maximum height of construction equipment and the latitude and longitude of the turbine shall be sent to the Defence Estates at the following address:

DE Operations North, Safeguarding Wind Energy, Kingston Road, Sutton Coldfield, 875 7RL.

Reason: The information is required to be plotted on flying charts for military aircraft.