

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE - 25 NOVEMBER 2014

PLANNING APPLICATION - LAND AT FORMER AIRFIELD TEALING

GRID REF: 340452 : 736847

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No 14/00428/FULM for the formation of a 31MW Solar Park and ancillary infrastructure, including internal site access tracks, inverter housing units and a security fence for Tealing Solar Park Ltd at Land at the Former Tealing Airfield, Tealing. This application is recommended for refusal.

1. RECOMMENDATION

It is recommended that the application be refused for the reasons given in Section 10 of this report.

2. INTRODUCTION

- 2.1 The applicant seeks full planning permission for the formation of a 31MW Solar Park and ancillary infrastructure, including internal site access tracks, inverter housing units and a security fence.
- 2.2 The application site ([Plan](#)) measures 51.2 hectares and consists of a significant part of the former R.A.F. Tealing Airfield. The former airfield lies within the Tealing Valley and lies around 4 km north of Dundee. The Tealing Valley marks the beginning of the rural open landscape after leaving the Dundee conurbation when travelling north on the A90. Tealing and the surrounding farmland is distinguished by the backdrop of the Sidlaw Hills to the north.
- 2.3 The proposed development would consist of the installation of a large solar photovoltaic (PV) array comprising around 122 400 solar PV panels, mounting structures, 30 electrical invertors stored in 15 inverter housing units, around 2km of internal site access track and a 2 metre tall green mesh security fence around the site perimeter. CCTV installations would also be erected at various points throughout the site as yet unspecified.
- 2.4 The mounted solar PV panels would stand 2.2 metres in height and would be spaced around 4.4 metres apart. Each mounting structure with panels would be 9.9 metres long and 3.9 metres wide. The inverter housing buildings would be flat roofed and simplistically designed. Each housing would be 3.3 metres in height, 2.8 metres in width and 6.2 metres long.
- 2.5 The site currently consists of a generally flat area of land that is a mix of vacant land and productive agricultural land that has been recently cropped with grain and potatoes. The former airfield access tracks and runways are evident in various states of repair throughout the site and the basic shell of the former control tower still stands to the south east. There is also a wind turbine of around 86.5 metres in height to blade tip and its associated infrastructure within the site. The turbine stands around 20 metres from the north boundary. There are also a number of high voltage electricity cables overflying the site. There are supporting pylons for the cables located at several points throughout the site.
- 2.6 Part of the south boundary of the site is marked by the Fithie Burn with arable land rising to the south towards the crest at Emmock before falling towards Dundee. The site boundary forms a dog leg to the north around Muir of Pert which is a former piggery consisting of a wide range of buildings and structures in varying states of repair. The south east boundary also bounds Muir of Pert and agricultural land. The north of the site runs contiguously with an

existing poultry growing operation along part of its length. The poultry operation has eight large broiler sheds arranged along a large section of the former west to east part of the runway of the former airfield. The balance of the north boundary has a cropped part of the former airfield beyond. Beyond the north boundary the land rises gently to the north towards Kirkton of Tealing and Tealing Village.

- 2.7 The west boundary partly bounds the existing large electricity substation at Tealing and partly bounds Myerton of Claverhouse Farm. There is no east boundary as such as the site comes to a point to the east adjacent to two chalet style dwellings that are associated with the adjacent chicken growing operation. Access to the site can be gained at this point via a hardcore track that runs from Kirkton of Tealing although the site access for the purposes of the development would be direct from the A 90 (T) through Inveraldie Farm and Muir of Pert. The access route also serves Moatmill Farm and is an adopted road up to that point.
- 2.8 The application has not been subject of variation.
- 2.9 The application was advertised in the Dundee Courier as required by legislation.

3. RELEVANT PLANNING HISTORY

13/00496/PPPM for Formation Of Onshore Electrical Transmission Infrastructure Between Carnoustie And Tealing To Service Seagreen Alpha And Seagreen Bravo Phase 1 Offshore Wind Farms, Comprising Of 19km Of Underground Electricity Transmission Cables, A New Substation/Convertor Station Adjacent To Existing Electricity Substation At Tealing And Formation Of Associated Vehicular Access And Temporary And Permanent Ancillary Works was determined as "Approved subject to conditions" on 5 December 2013.

4. APPLICANT'S CASE

- 4.1 The following has been submitted in support of the proposal:
- A Pre-application Consultation Report;
 - A Design and Access Statement;
 - An Environmental Report;
 - A Landscape and Visual Impact Assessment;
 - A Flood Risk Assessment.
- 4.2 The Pre- Application Consultation Report details the level of community engagement undertaken prior to the submission of the planning application along with details of how the application process was influenced by the community engagement process. The report highlights that as the proposal relates to a Major Development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 a pre application consultation exercise had to be undertaken that was at least in compliance with the minimum statutory consultation requirements prescribed in legislation. The report concludes that of the 18 members of the public that attended a public exhibition, 5 completed a questionnaire. Two of the questionnaires expressed strong objection against the development and tree planting has been proposed along the north of the site to address these concerns. Other concerns expressed related to the loss of footpaths around the site and a minimum 1 metre strip is proposed to be left around the site perimeter to address this. Other submitted questionnaires expressed support for the development. The report also details a Community Council Meeting that was attended by the applicant's representative on 21 May 2014.
- 4.3 The design and access statement sets out the criteria and principles against which the Tealing Solar Park proposal was designed. It is stated that the statement demonstrates how the site and its surroundings have been fully appraised to ensure that the final design solution is the most suitable for the site. Details are also provided on the access arrangements to the development, including disabled access. It is highlighted that the statement should be read in conjunction with the Environmental Report (ER), which also contains information on the description of the development, predicted environmental effects and traffic effects. The statement gives a summary of the background to the development highlighting that the applicant identified the site at Tealing as a suitable location for a Solar Park development following a rigorous screening assessment and notes the proximity to a suitable grid connection point at the adjacent electrical substation.

- 4.4 The Design and Access Statement contains a summary of site design considerations and includes an overview of the main features of the development along with sections on site selection, environmental considerations, landscape and visual impact, ecology and biodiversity, cultural heritage and archaeology, cumulative impacts, transport and access, glare, flood risk, impact on agricultural land and layout. The Design and Access Statement concludes that the proposal is considered to be in line with current national and local renewable energy policies relating to Scottish Government commitment to tackling climate change, moving towards a zero-waste Scotland and increasing the use of various renewable energy technologies. It is stated that the applicant believes that the proposed development has been carefully and methodically designed and is sensitive to the local surroundings and environment of the site. Given the site's irradiation resource afforded by the location, and the proximity to the grid connection, it is stated that the applicant is of the opinion that the site is ideally located for the proposed Solar Park.
- 4.5 The Environmental Report gives general background about the development proposal, the land owner, the developer and the rationale for the development report assesses the environmental impacts likely to result from the proposal for a 31MW Solar Park at Tealing former airfield. The applicants agent states that the report provides a level of detail appropriate to the scale of the development, and has been produced in line with relevant environmental policies and planning guidance and has been informed by scoping with Angus Council.
- 4.6 The report contains sections covering the proposal, the planning and environmental landscape and visual impact, cultural heritage and archaeology, glare and surface water and hydrology. The report also contains Appendices in the form of a viewpoint assessment and a residential property assessment. The report concludes that the proposal is in line with current national and local renewable energy policy that states the Scottish Government's commitment to tackling climate change, moving towards a zero-waste Scotland and increasing the use of various renewable energy technologies. In terms of Local Planning Policy, it is stated that the Tealing site is located in a Landscape Character Area of lower sensitivity to development.
- 4.7 The report states that environmental assessments have found no adverse impact predicted as a result of the proposed development and that the applicant believes that the proposed development has been carefully and methodically designed and is sensitive to the local surroundings and environment of the site. It is the applicant's stated opinion that the Tealing Solar Park proposal is consistent with local and national planning policy and that the generation of clean energy as well as potential local benefits, effectively resulting from the improvement to the current condition of the site and biodiversity, will be greater than any negative environmental effects, which are predicted to be minor. Given the site's irradiation resource afforded by the location, and the proximity to the grid connection, the applicant is of the opinion that the site is ideally located for the proposed Solar Park. The report concludes that development would provide Angus with 11% of its electricity demand, over 6,000 homes, and would increase Angus' renewable energy capacity by 150%. This would provide a significant boost for Angus' renewable energy statistics and contribute significantly to the overarching national target of 100% electricity demand produced by renewable energy, without causing adverse or significant environmental impacts.
- 4.8 The Landscape and Visual Impact Assessment contains a number of illustrated figures. The Site and study area are identified, and there is a visual representation of landscape character and a Zone of Theoretical Visibility (ZTV) illustration as well as 12 viewpoints showing the development in context utilising map based assessments, photomontages and wireline illustrations. The illustrated viewpoints accompany the viewpoint assessment contained in Appendix 1 of the submitted Environmental Report as summarised above.
- 4.9 The submitted Flood Risk Assessment is stated to be carried out in accordance with the requirements of the Scottish Planning Policy (SPP). The assessment utilises a set of procedures originally set out in the Flood Estimation Handbook (Institute of Hydrology, 1999) and embodied in the relevant software packages currently used. The assessment is prepared using best engineering judgement but it is stated that there are levels of uncertainty implicit in the historical data and methods of analysis. Details of the range of possible error in the methods of flood estimation are given in the Flood Estimation Handbook (FEH). It is stated that flood risk is typically assessed for a 1 in 200 year flood event.
- 4.10 It is concluded that Flooding is predicted on parts of the site during a 1 in 200 year flood event, due to floodwater associated with the functional floodplain of the Fithie Burn. There are

also likely to be areas of overland flow associated with the overtopping of flood flows from with the Fithie Burn and the Tealing Burn. These overland flows are likely to be shallow, typically less than 100m deep. Where this is the case these flows will have no effect on placement of the proposed solar array. There are some relatively limited areas where overland flow is predicted to be greater than 200mm deep. These areas are indicated along with areas of direct flooding due to floodplain extents, on drawing 12923/21/001. Where flooding is predicted, the minimum height of the lower edge of each individual solar panel table should be set so that it is at least 300mm above the predicted flood level. When possible, the required transformers indicated on the solar farm masterplan drawing should be relocated outwith the functional floodplain. Where this is not possible, they should be raised on poles so that they are at least 600mm above predicted flood levels. All access tracks to be formed within the site should be of permeable type surfacing (e.g. gravel) which should not generate additional runoff over and above greenfield runoff. Hence formal drainage of the site will not be required. All access tracks should be formed in such a way that there is no change in levels compared with original ground levels. Alternatively if any increases in levels are proposed, compensatory flood storage will be required.

5. CONSULTATIONS

5.1 **Community Council** - The Community Council has objected to the proposal. The following points of objection have been stated:

- Cumulative Impact;
- Failure of the landowner to maintain the land in a satisfactory condition and should not now be offered the opportunity to profit from industrialisation of the countryside;
- The development will contribute towards a change in the character of Tealing which is a farming community despite the locality already having reached capacity in terms of the number of wind energy related developments that has taken place;
- The proposal would take place on land that has already been approved for development associated with offshore wind energy development;
- That local residential concern has been expressed relating to impact on house prices and that not enough is known about the impact of such proposals on the wellbeing of livestock and people;
- That the proposal would have a negative impact on the airfield which is considered by the community to be a local heritage asset;
- That access from the A90 would be dangerous and the farm access road is below standard;
- That the proposal to graze animals on the site would be contrary to research that suggests that the heat generated under the solar array would have a negative effect on livestock.

5.2 **Angus Council - Roads** - No objection is stated. Access to the airfield is via the A90(T) and the U319 Moatmill Road. Moatmill Road is a public road up to the access to Moatmill Farm. The carriageway of the road is generally, 5 metres wide and relatively straight in alignment.

5.3 The applicant has submitted an Environmental Report which indicates that the deliveries to the solar park would use standard deliver vehicles as opposed to any specialist vehicles required to move abnormal loads. No concerns are expressed regarding the use of the proposed access road by construction traffic. The proposal has been considered in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, no objection is raised in relation to the application.

5.4 **Scottish Water** - There was no response from this consultee at the time of report preparation.

5.5 **Scottish Environment Protection Agency** - SEPA has considered the Flood Risk Assessment by Millard Consulting entitled "Proposed Solar Farm at Tealing Airfield, Tealing Angus" dated September 2014, reference 12923/BC/247. SEPA has removed its initial objection to the proposed development on flood risk grounds. In respect of the issue of Radioactive Contaminated Land SEPA has indicated that it is not aware of any measured radioactive contaminants on the site or any documentary evidence to suggest that radioactive contaminants may be present. However, given the site's former use as a military airfield radium 226 may be present due to its use in aircraft dials during WWII. The proposed development will involve the construction of a security fence. Providing that this fence is constructed prior to further works, primarily the shallow excavation works for the cable burial, the receptors on the site will be restricted to construction workers and latterly maintenance

crew and any risk from potential radioactive contaminants must be considered under health and safety legislation during the works and in working procedures for ongoing maintenance.

- 5.6 **Scottish Natural Heritage** - There was no response from this consultee at the time of report preparation.
- 5.7 **Transport Scotland** - The Director does not advise against granting planning permission.
- 5.8 **Health & Safety Executive** - There was no response from this consultee at the time of report preparation.
- 5.9 **Dundee City Council** - There was no response from this consultee at the time of report preparation.
- 5.10 **Historic Scotland - Archaeology** - Historic Scotland have considered the consultation and have no comments to make on the proposals. Historic Scotland confirms that Angus Council should proceed to determine the application without further reference to them.
- 5.11 **Ministry Of Defence** - No safeguarding objection is stated.
- 5.12 **Civil Aviation Authority** - There was no response from this consultee at the time of report preparation.
- 5.13 **Dundee Airport Ltd** - Assurances are sought on glint and glare impacts on pilots. Information submitted in this respect has been passed to the Airport operator and no further comment has been provided.
- 5.14 **National Grid Plant Protection** - There was no response from this consultee at the time of report preparation.
- 5.15 **Angus Council - Flood Prevention** - The recommendations within the flood risk assessment should be adhered to specifically:
- Where flooding is predicted the minimum height of the lower edge each solar panel should be set 300mm above the predicted flood level;
 - All transformers should be located out with the functional floodplain;
 - Where this is not possible they should be raised at least 600mm above the functional flood plain;
 - All tracks should be constructed with a permeable surface as no formal drainage is proposed;
 - All tracks should be formed such that there is no change to the original ground level.
- 5.16 **Angus Council Environmental Health** - The Environmental Report includes a basic theoretical assessment that suggests that direct reflected light will not occur below 50° to the horizontal if the panels are fixed at the proposed 25° and as such concludes that no sensitive properties will be adversely affected. As the angle of the panel is fundamental to the angle of the reflected light, it is requested that a condition controlling this issue be included in any consent granted. As an additional safeguard it is requested that a condition is attached placing an obligation on the solar farm operator to investigate any complaint of reflected light if requested by the Planning Authority to do so.

Operational noise is not likely to be a major concern but in the absence of any noise data it is requested that a condition designed to protect nearby amenity levels be attached. Construction activities, particularly delivery vehicle movements do have the potential to cause significant noise impacts if not suitably controlled and in this respect it is suggested that conditions that set limits on noise from construction activities as well as controlling the times that deliveries can be made to the site.

In respect of contaminated land, available information including historic mapping and aerial photography has been reviewed and it is considered that the site does not pose a significant risk of harm to the proposed use from land contamination.

- 5.17 **NERL Safeguarding** - No safeguarding objection is raised.

- 5.18 **Aberdeenshire Council Archaeology Service** - No archaeological mitigation would be required, however it is requested that the applicant is advised of the potential for unexploded ordnance to survive in the area from the site's former use as a World War II Airfield.

6. REPRESENTATIONS

6.1 Six (6) letters of representation were received from three parties. The letters state objection to the proposal. No letters of support were received. The letters of representation will be circulated to Members of the Development Standards Committee and a copy will be available to view in the local library or on the council's Public Access website.

6.2 The main points of concern were as follows:

- That the proposed development would contribute to the industrialisation of the land around Tealing at the expense of the traditional farming activity of the locale.
- That the proposal would have a negative visual effect on the surrounding countryside when viewed cumulatively with existing built and proposed development in the form of wind turbines and the proposed substation extension associated with the Seagreen Alpha and Bravo offshore wind energy development.
- That the proposed development would have a negative impact on the historic environs of the former World War 2 airfield.
- That the proposed development would have a negative impact on the amenity and value of nearby residential properties.
- Loss of an area of recreational value.
- Lack of information relating to potential risk to health of people and livestock arising from the development.
- Negative landscape effects.
- That the proposed development would have significant implications for the realisation of the proposed and approved substation/ converter station development and the approved cable route associated with the 1050MW Seagreen Phase 1 offshore wind energy project as approved under planning ref: 13/00496/PPPM.
- That the proposed solar park includes the entire site for the new substation/converter station forming part of the approved electricity grid connection arrangements for two offshore wind farms. The grid connection is recognised as a National Development for which there is a national need as detailed in Annex A of the third National Planning Framework (NPF3). As a result the solar park as proposed is in clear and fundamental conflict with NPF3 priorities.
- That there is clear legal precedent that states that in appropriate circumstances, planning permission can be refused on the basis of conflict with an alternative proposal for the same land.
- That the benefits that could be derived from the solar park are insignificant compared to the benefits that would be derived from the proposed offshore wind projects and that the proposed solar park would impede the delivery of these projects.
- The grid connection point at Tealing for the Seagreen offshore wind projects was determined by National Grid who are under a statutory obligation to identify the most economically efficient connection points for new generating capacity. The grid connection point at Tealing associated with the Seagreen offshore wind projects has been fixed since 2010 when connection agreements were signed for a connection in 2018.
- The developer of the solar park has failed to take the grid connection for the consented offshore wind energy developments into account in designing the scheme and the matter could not be remedied through a variation to the scheme

7. PLANNING CONSIDERATIONS

7.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

7.2 In this case the development plan comprises:-

- TAYplan (Approved 2012)
- Angus Local Plan Review (Adopted 2009)

- 7.3 The relevant policies of TAYplan and of the Angus Local Plan Review are reproduced at Appendix 1.
- 7.4 In addition to the development plan a number of matters are also relevant to the consideration of the application and these include:
- National Planning Framework for Scotland 3 (NPF3);
 - Scottish Planning Policy (SPP);
 - Scottish Government 'Specific Advice Sheet' on Large Photovoltaic Arrays;
 - The supporting information submitted in respect of this application;
 - Tayside Landscape Character Assessment;
 - Angus Council Implementation Guide for Renewable Energy Proposals (2012);
- 7.5 NPF3 states that 'Planning will play a key role in delivering on the commitments set out in Low Carbon Scotland: the Scottish Government's report on proposals and policies (RPP2). The priorities identified in this spatial strategy set a clear direction of travel which is consistent with our world-leading climate change legislation'. NPF3 goes on to state: 'By 2020, we aim to reduce total final energy demand by 12%. To achieve this, and maintain secure energy supplies, improved energy efficiency and further diversification of supplies will be required'. While NPF3 is relatively silent on the issue of photovoltaic power, it does envisage a diversified approach to renewable energy production in stating: 'The low carbon energy sector is fast moving and will continue to be shaped by technological innovation and a changing environment. As a result, our strategy must remain sufficiently flexible to adapt to uncertainty and change so we are well placed to make the most of the new opportunities that will undoubtedly emerge'.
- 7.6 The Scottish Planning Policy (SPP, June 23, 2014) represents a statement of government policy on land use planning. In respect of renewable energy, the SPP focusses primarily on wind energy development however the SPP does state that the planning system should support the development of a diverse range of electricity generation from renewable energy technology including the expansion of renewable energy generation capacity.
- 7.7 The Scottish Government's Planning Advice Notes relating to renewable energy have been replaced by Specific Advice Sheets (SAS). The 'Large Photovoltaic Arrays SAS' identifies typical planning considerations in determining planning applications for large PV arrays. Such considerations may include but are not limited to:
- Landscape and Visual Impact;
 - Ecological Impacts;
 - Archaeology;
 - Community Impacts;
 - Glint and Glare;
 - Aviation Matters;
 - Decommissioning.
- 7.8 Angus Council has produced an Implementation Guide for Renewable Energy Proposals. It provides guidance for development proposals ranging from small single turbines to major wind farms and does tend to focus mainly on wind energy proposals. In respect of solar and PV arrays, the guide identifies the localised planning concerns that can arise such as visual impacts and impacts on built heritage designations.
- 7.9 Bringing the above together, the key policy and material considerations in relation to the determination of the application for a solar array of this scale are:
- Environmental and Economic Benefits;
 - Landscape Impact;
 - Visual Impact;
 - Impact on Residential Amenity;
 - Ecology Impact;
 - Glint, Glare and Aviation Impacts;
 - Archaeological and Built Heritage Impacts;
 - Other Development Plan Considerations;
 - Other Material Considerations.
 - Environmental and Economic Benefits:

- 7.10 Policy 6 of TAYplan indicates that one of its aims for the city region is to deliver a low/zero carbon future and contribute to meeting Scottish Government energy and waste targets. Policy 6 identifies matters that should be considered when determining planning applications for development proposals, including consistency with the National Planning Framework and its Action Programme. The current application site overlays the site of a previously approved scheme for the formation of a new substation/convertor station adjacent to the existing electricity substation at Tealing and the formation of associated vehicular access and temporary and permanent ancillary works amongst other things (See Section 3 above). Around 67.5% of the application site or thereby covers the site identified in planning permission ref: 13/00496/PPPM. Since the time of granting that permission, National Planning Framework 3 (NPF3) has been published. The development approved in planning permission ref: 13/00496/PPPM would be part of a national development should it be implemented. As the proposal seeks to bring forward an alternative development on a site that has been identified as being required for the realisation of a development that falls within a category identified in NPF3 as a National Development without any indication of how the National Planning Framework has been taken into account, the proposal is not considered to be consistent with the NPF and subsequently is also considered to be inconsistent with TAYplan Policy 6.
- 7.11 Notwithstanding this inconsistency a full assessment of the proposal in relation to development plan policy is provided. In this respect the local plan indicates that Angus Council supports the principle of developing sources of renewable energy in appropriate locations. The proposed development would have a capacity of 31 MW capable of generating 25.4 GWh of electricity annually which is roughly enough to provide power for 6060 homes. This equates to around 11% of the household electricity demand for Angus. In this respect it is accepted that the proposed array would make a contribution towards renewable energy generation and as such the proposals attract in principle support from the development plan. To assess the acceptability of the proposals in terms of the more detailed technical issues, the policy tests must be explored.
- Landscape Impacts:
- 7.12 Policy 6 of TAYplan indicates that in determining proposals for energy development consideration should be given to landscape sensitivity. Local Plan Policy ER5 (Conservation of Landscape Character) requires development proposals to take account of the guidance provided by the Tayside Landscape Character Assessment (TLCA), prepared for Scottish Natural Heritage (SNH) in 1999, and indicates that, where appropriate, sites selected should be capable of absorbing the proposed development to ensure that it fits into the landscape. Policy ER34 of the local plan indicates that proposals for renewable energy development will be assessed on the basis of no unacceptable adverse landscape and visual impacts having regard to landscape character, setting within the immediate and wider landscape, and sensitive viewpoints.
- 7.13 The site is within the larger categories of the TAY13 Dipslope Farmland Landscape Character Area (LCA). The Dipslope Farmland in general is an open and agricultural landscape of medium to large scale, with industrial sized farm buildings and dispersed settlements. Characteristic for this LCA are the loss of traditional field boundaries which provide a smaller scale landscape texture.
- 7.14 The proposed site is part of the Tealing Farmland, a sub-area of the LCA north of Dundee. The entering of the Tealing valley marks the beginning of the rural open landscape after leaving the Dundee conurbation when travelling north on the A90.
- 7.15 Within the Dipslope Farmland, the Tealing Farmland is distinguished by the backdrop of the Sidlaw Hills and a higher density of urban and infrastructural development. There are a large amount of vertical structures in the area, mostly related to the presence of the electricity substation with a concentration of associated pylons, but also communication masts which are visible on the surrounding hill-tops and a 86.5m sized wind turbine on Tealing airfield. Tealing farmland has a less developed character to the west of the site where the Dipslope Farmland merges into the Sidlaws.
- 7.16 The immediate surroundings of the site are characterised by the neighbouring substation and a high concentration of electricity pylons, industrial farming uses such as the poultry sheds on the runway along the northern edge of the proposed site and the large complex of the Muir of

Pert Farm which has a variety of different agricultural structures and abandoned sheds, laid out in a cluttered accumulation along the eastern edge of the airfield. The airfield and the abandoned associated buildings along with spoil heaps add to a derelict appearance to the immediate surroundings contrasting with rural and picturesque elements of the surrounding landscape, such as fields and hedgerows with field-trees and larger groups of mature deciduous trees, such as around Tealing, Inveraldie, Balnuith and others. Although these are examples of remaining field boundaries there are other locations where field boundaries are degraded or absent.

- 7.17 There would be a change in the landscape quality affecting the area which is covered by the development. The proposed Solar Park would obscure a large surface area that would usually constitute part of the rural and agricultural appearance of open fields, exhibiting colours and textures of the seasonal crop-growing cycle throughout the year. The solar-panels would remove these rural landscape qualities from the proposed site, giving it a more industrial appearance even if grazing would be preserved underneath the panels. The change in landscape character would be a reinforcement of the utilitarian and industrial character-element of the Tealing Landscape.
- 7.18 Due to the limited extent of the area and the low degree of topographical exposure of the site the impact of these landscape effects would be limited and could be successfully mitigated by screening vegetation which integrates with existing vegetation patterns. This would help restoring some of the rural landscape elements which have a tendency of disappearing and could therefore have beneficial landscape effects.
- 7.19 Landscape sensitivity of the landscape surrounding the proposed site is medium-low due to the presence of other infrastructural development, the high concentration of pylons, the sealed surfaces of the runways and the industrial sheds and farm structures in the vicinity. Rather than a change in landscape character there would be a reinforcement of the utilitarian character-element of the Tealing Landscape. In this regard the landscape impact of the proposed development is not considered unacceptable.

Visual Impact:

- 7.20 Policy S6 of the Angus Local Plan Review requires that proposals should not give rise to unacceptable visual impacts. Policy ER34 of the local plan also indicates that renewable energy development will be assessed on the basis of no unacceptable adverse landscape and visual impacts having regard to landscape character, setting within the immediate and wider landscape, and sensitive viewpoints.
- 7.21 The proposed site is located in a dip of the Tealing valley, between the southern edge of the Sidlaws and north of Dundee. Due to the topographical ridge separating the valley from the Dundee conurbation the site will have no visual impacts on the Dundee area. The site would be particularly visible from elevated locations overlooking the valley such as the surrounding hills, affecting views from viewpoints, recreational paths and roads in elevated locations. The main receptors which would be possibly affected by visual impacts would be views from the dual carriageway, scenic views from minor roads in the vicinity, the visual amenity in places of residence at close proximity and walkers during recreational activities on the surrounding hills.
- 7.22 Within views from the A90 visibility of the proposed Solar Park is likely to be limited. Theoretical visibility affects the stretch between the two ridgelines, north of Dundee and at Petherden, however in reality visibility will be much more limited, due to frequent screening by buildings and vegetation and the distance and the low height of the proposed development.
- 7.23 The general sensitivity of the receptor is considered medium, however visual impacts could be significant where panoramic landscape views are a particularly scenic experience, when seen from a car while travelling. This would include the scenic view that is gained when travelling north on the A90 and when crossing the ridge north of Dundee past Emmock road. In this location after passing the woodland and the cutting large panoramic landscape views over the valley open up (Viewpoint 9).
- 7.24 However the proposed development would be located in a flat and low lying terrain at considerable distance. Judged by the visualisation for viewpoint 9 the development would be largely screened by buildings and hedgerows.

- 7.25 Other locations from the A90 would be less sensitive as views are less scenic and offering less of an overview of the landscape but rather fragmented by screening in the fore - mid and background. However there are locations where an unobstructed view of the site can be obtained such as to the north of the valley as demonstrated in Viewpoint 7.
- 7.26 Scenic landscape views over the Tealing valley and the Sidlaws beyond are also available from the high ground on Emmock road to the south west of the site, as partly represented in the visualisation for Viewpoint 4. The full extent of the development would be visible without screening from this location and obscure a large proportion of the present agricultural terrain. This would have moderate to significant adverse visual effects given the horizontal extent occupying the landscape view. Although the proximity to the existing substation and the high concentration of pylons make the view less sensitive to infrastructure development, the proposed development would obscure a large surface area within the view and therefore screening by a hedgerow or riparian vegetation in this direction would be desirable and effective mitigation measures.
- 7.27 Small settlements potentially affected would be Kirkton of Tealing, Tealing to the north and Inveraldie to the north east. Few of the properties and roads within the settlements are openly facing the site and most of the properties are screened towards the development. Some would experience some views of the development but these are not considered unacceptable.
- 7.28 In the settlement of Inveraldie one large residential building with many windows (at Dalziel Place) and two to three properties gardens would face the site and have partly unobstructed views on the development from the distance. The visualisation for viewpoint 5 demonstrates the impact on these receptors. According to the visualisation, visual impacts for views of the site would be moderate-low.
- 7.29 There is a recreational walk adjacent to the shelterbelt to the west of the village which would experience similar visual impacts.
- 7.30 Visual effects on Kirkton of Tealing are represented in the visualisation for Viewpoint 3. There is only one property that would be affected by unobstructed views of the site, with gardens and windows facing the site. Despite the large horizontal extent of the development visual impacts are estimated to be moderate. Visual effects are largely mitigated by screening from buildings and vegetation.
- 7.31 Whereas most of Tealing is screened from the development around 10-20 properties on the edge of Tealing might theoretically get views of the development from their windows or garden spaces from a distance, however most of the development would be concealed behind poultry sheds and visual impacts are judged to be low.
- 7.32 There is a core-path connecting Kirkton of Tealing from Balnuith along the northern edge of the airfield. This path is likely to be used as a local recreational walk by people from the surrounding residences and small settlements, and would be subject to visual impact; however the sensitivity to the proposed changes of the landscape views in the direction of the development at the present is low.
- 7.33 There are 16 individual residences within the proximity of 1km of the proposed development, including properties at Tealing Airfield, Moatmill, Muir of Pert, Seventeen Acres, Myreton of Claverhouse, Balnuith, North Mains of Baldovan, North Powrie, Whitewalls and Emmock. Viewpoints 12 and 2 and 1 represent views from the closest single properties to the north and east, viewpoint 6 represents views from properties to the south. The visualisations suggest that due to the horizontal nature of the development visual impacts are limited and the development integrates into the landscape without occupying a dominant proportion of the landscape views or being visually overbearing. Visual impact for the closest property (Seventeen Acres) is demonstrated in visualisation for viewpoint 12, where the visibility of the development is negligible. However screening by a hedgerow or riparian vegetation towards the north and south would be a desirable and effective mitigation measure for remaining visual effects.
- 7.34 To the north-west of the development are a number of recreational paths and viewpoints which would likely be affected by the development, which are part of the Sidlaw Hills within the Igneous Hills LCA. A variety of paths and core-paths create access to viewpoints and walks where scenic panoramic views over the Tealing valley and the landscape beyond to the sea can be gained. A core-path leading up Gallow Hill and Balluderon Hill, including a

viewpoint on Balluderon Hill would likely experience views of the development. The visualisation for viewpoint 11 from Craigowl Hill could be representative of the approximate significance of visual impact affecting these locations. Unfortunately the light and weather conditions of the photograph conceal most of the developments direct context and also the projected texture is unconvincing, however, the large scale and horizontal extent of the development become more evident from this viewpoint. Moderate adverse visual impacts would arise from the large scale and the shape of the development, disrupting the regular field patterns as seen from above. Moderate to significant adverse visual impacts may also arise from the visual prominence of the panels when reflecting sunlight and create a visual prominence that the development would otherwise not have, however these would unlikely be permanent but limited in duration. Screening by vegetation could partly mitigate the visual effects of the development on these viewpoints.

- 7.35 Visual impacts would be more significant for views from the higher ground to the north-west and south-west and from the hilltops within the Sidlaws where the expansive extent of the development would become visible and obscure large areas of open fields. However, a high concentration of existing development lowers the overall sensitivity of the views over the valley.
- 7.36 The low rise nature of the development also facilitates efficient forms of mitigation measures such as planting for the screening of the development. The Dipslope Farmland is characterised by its loss of traditional field boundaries and developments like the Solar Park could offer an opportunity to restore hedgerows or riparian vegetation along watercourses, such as the Fithie Burn to the south of the development site. Overall it is considered that the proposal would not give rise to unacceptable visual impacts subject to appropriate mitigation through screen planting.

Cumulative Landscape Effects:

- 7.37 There are no other solar park developments in the area. Cumulative effects could arise in combination with polytunnels which have a similar landscape and visual impact of a similar surface coverage, height, striped pattern and reflecting artificial material. There are polytunnels neighbouring the site of the proposal. Combined landscape effects would increase the artificially covered surface area and obscure otherwise agricultural terrain, which results in a loss of rural more natural landscape texture and colour and give the landscape an increasing industrial appearance.
- 7.38 However cumulative landscape effects resulting from the two features are moderate when considering the landscape context. Changes in landscape character due to the accumulation of utilitarian and infrastructural elements of different kinds in a formerly agricultural landscape are also considered in the section on landscape effects.

Cumulative Visual Effects:

- 7.39 Again cumulative effects could occur in conjunction with other developments such as polytunnels which have a similar visual effect. Views from the higher ground to the north-west and south-west of the site have an obstructed view over the large surface areas that would be occupied by the development and the neighbouring surface areas occupied by polytunnels, such as the scenic landscape views that are also gained from Emmock Road to the south west of the site (viewpoint 4) and the views from the paths and viewpoints within the Sidlaw Hills, represented by views such as from Craigowl Hill (viewpoint 11). The increasing amount of artificial surface cover in a rural landscape and the potential reflectivity of the developments would create moderate adverse cumulative visual effects within views from the Sidlaw Hills as represented in viewpoint 11. Within views from the higher ground to the south-west in Emmock road, the scale of the surfaces artificially covered would be increased by the two features in combination and therefore cause moderate cumulative impact.

Ecology Impacts:

- 7.40 Development plan policy requires consideration of the impact of development proposals on natural heritage interests including protected species and important habitats. In this case the site is not located within an area designated for its natural heritage interests and is some distance from such designations. The site consists of a former RAF airfield that is of mixed vacant and agricultural character. There is large scale infrastructure present on and adjacent to the site and the surrounding land is of arable agricultural character. The supporting

information contains a chapter on Ecology and Biodiversity and highlights that an ecological survey for protected species and habitats was carried out including European Protected Species (EPS). The survey concluded that no signs of protected species were recorded at the site. It was also concluded that there was a poor species list of potential breeding birds at the site and that the nature of the locale did not make a good breeding bird habitat. It was also considered that the solar park may improve habitat for breeding birds, particularly ground breeding species, as the land would no longer be intensely farmed. There would be no significant effects on protected species or priority habitats arising from the development. SNH was consulted but has offered no response or objection. There is no reason to consider that the array would have an unacceptable impact on ecological or natural heritage interests.

Glare and Aviation Impacts:

- 7.41 In relation to the impact of the development on aircraft activity, the MOD, NATS, CAA and Dundee Airport have been consulted and have not raised any objection to the application. However Dundee Airport has sought assurances that the array would have no impact on authorised aircraft activity in the area. The glare assessment was sent directly to the operator of Dundee Airport however no response was forthcoming. Notwithstanding this, no significant impact on aircraft activity is anticipated. A Glare Assessment was undertaken which highlights that a 3km buffer zone has been set around aerodromes by the Non-Domestic Microgeneration (Scotland) Amendment Order 2011. The development would be located around 7.5 km from Dundee Airport. Flight paths for the airport run on a west to east orientation on a parallel with the River Tay which gives a similar level of reflectivity to solar PV panels. Also of worthy note is that no objection was raised from the MOD in respect of aircraft activity at RAF Leuchars which was until recently operating fast jets. The development would not produce valid reflections to aircraft either on approach or departing, nor would it affect air control personnel at either airport. The report concludes that the development would have negligible effects on aviation operations in the area and highlights that solar PV panels have been utilised successfully on airport buildings elsewhere in the UK without any impact on aircraft activity.

Archaeological and Built Heritage Impacts:

- 7.42 Cultural heritage interests include listed buildings, conservation areas, historic gardens and designed landscapes, scheduled monuments and local archaeological interests. The applicant has provided a Cultural Heritage and Archaeology Survey in support of the application. Historic Scotland and Aberdeenshire Council Archaeology have been consulted on the development proposal. The baseline assessment concludes that there would be an overall negligible indirect visual impact upon the historic features within 3km of the site. Aberdeenshire Council Archaeology Service and Historic Scotland have indicated that the application raises no issues for them in terms of impacts on built heritage assets in the area. Having taken account of all relevant information I am satisfied that the development would not have an impact on the fabric or the setting of any cultural heritage site to a degree that would merit refusal of the application.

Other Development Plan Considerations:

- 7.43 The remaining policy tests cover the impact of transmission lines associated with energy generation developments; impact of transporting equipment via road network and associated environmental impacts of this, flood risk and impacts on prime agricultural land.
- 7.44 The transmission arrangements associated with the development would be minimal due to the close proximity of the site to the large electrical substation at Tealing which lies adjacent to the site. The substation provides ready access to the existing high voltage transmission network. On this basis it is considered that the transmission arrangements for the proposal would not give rise to any unacceptable impacts beyond the reasonably significant impact that the existing substation and its associated overhead power lines and pylons have in the landscape.
- 7.45 In terms of transport to the proposed site, the proposal is not expected to give rise to any requirement for extra ordinary transportation requirements unlike wind energy development for example. The Council's Roads Division and Transport Scotland have considered the likely impact of the development on the roads network and raise no objection. Construction access would be via the existing access at Inveraldie Farm which has previously been utilised for the delivery of wind turbine components without significant impact.

- 7.46 In terms of flood risk, a Flood Risk Assessment has been undertaken and submitted as parts of the site are known to be at risk of flooding from the Fithie Burn and the Tealing Burn. The FRA has been considered by both SEPA who had initially objected to the proposal on the basis of lack of information and by Angus Council Roads Division in its capacity as the local Flood Prevention Authority. SEPA has subsequently rescinded its initial objection as it considers that the issue of flooding has been adequately addressed. The Flood Prevention Authority does not object but highlights that the development should be undertaken in accordance with the FRA which makes recommendations regarding the location of transmission equipment and levels of panel mounts on areas of the site that are susceptible to flooding. Recommendations are also made about the surface treatment and levels of roads and tracks.
- 7.47 The final Development Plan consideration is the impact of the development on prime agricultural land. The site is a mix of Class 3.1 and Class 3.2 land which puts the majority of the site in the prime agricultural land category. The typical operational period of the array would be 25 years and, following this, the array would be decommissioned and the land returned as close as practicable, to its original state. Policy ER30 presumes against proposals on unallocated sites that would result in the permanent loss of prime quality agricultural land or which would affect the viability of the farm business. The nature of the proposed development would ensure that the agricultural land would not be permanently lost. While there is a suggestion that grazing would take place within the site during the lifetime of the development, this low grade activity is not akin to the range of activity available under normal circumstances and is of little relevance in reality. The development could however be removed fairly readily without permanent damage or loss should it become surplus to requirements. This does raise the question of decommissioning however this matter could be addressed through a planning condition to ensure that a suitable and enforceable scheme for this is agreed prior to the commencement of any works on site. This does presume that the site would be decommissioned after 25 years and the possibility that it could be re-used or re-equipped beyond the 25 year period subject to further consent and depending on prevailing policy of the time along with other considerations is equally not diminished by the use of such a condition.
- 7.48 Overall it is considered that the proposal does not give rise to any unacceptable impacts in terms of the above assessment in terms of local plan considerations. Notwithstanding this, the assessment of the proposal in terms of Policy 6 of TAYplan at 7.10 above needs to also be taken into account. The development proposal would take place on a site, the majority of which has been identified as being required in order to bring forward a development type that has been identified in NPF3 as being in the national interest. While the proposal would be consistent with the NPF in terms of the development making a contribution towards meeting national renewable targets, there has been no demonstration of how the proposal would be consistent with the National Planning Framework in terms of its potential to impact on a category of development identified in NPF3 as being in the national interest, namely the new and or upgraded High Voltage Electricity Transmission Network. In this respect it is considered that the location and extent of the development has not been justified having regard to the national development identified in NPF3. The proposal is therefore inconsistent with the Development Plan in this respect.

Other Material Considerations:

- 7.49 Scottish Government policy supports the provision of renewable energy development. The SPP confirms that planning authorities should support the development of a diverse range of renewable energy technologies in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed.
- 7.50 The potential generating capacity from the development is reasonable for the size of the array. The array would produce the equivalent of several large wind turbines with arguably a much lesser landscape and visual impact and negligible noise impact. The nature of the site is such that the environmental, landscape and visual effects are localised and the development would not result in unacceptable amenity impacts either individually or cumulatively.
- 7.51 National Planning Framework 3 (NPF3) has been referred to above in terms of its general support for renewable energy development and also in respect of its status as a relevant consideration in terms of assessing applications for energy infrastructure under Policy 6 of

TAYplan. NPF3 was laid before Parliament on 23 June 2014 and sets out the Scottish Government's plans for development and investment in infrastructure. NPF3 is the up-to-date spatial expression of Government Economic Strategy and as such development plans are expected to support the priorities contained in NPF3 in order that planning decisions are taken that enable the delivery of national developments as identified in Annex A of the framework.

- 7.52 At this time the Angus Local Development Plan and TAYplan 2 Strategic Development Plan are in the process of being formulated. The existing development plan framework predates NPF3 and therefore does not fully reflect the NPF3 priorities either at a local or strategic level. As the most up-to-date expression of strategic national policy in relation to major infrastructure priorities in Scotland, NPF3 is therefore considered to be a material consideration of some weight in the determination of planning applications that relate to identified national developments. It is considered similarly material when considering development proposals that could impact on such identified national developments.
- 7.53 As identified in Section 3 above, the site is subject to an extant planning permission (approved by the Development Standards Committee on 26 November 2013 under planning permission reference 13/00469/PPPM (report No 643/13)) relevant to the formation of onshore electrical transmission infrastructure between Carnoustie and Tealing to service Seagreen Alpha and Bravo Phase 1 offshore wind farms. Part of the development as approved under that reference includes the formation of a new substation and converter station adjacent to the existing electricity substation at Tealing as well as the formation of associated vehicular access and temporary and permanent ancillary works. The site identified for this element of the development covers a significant part of the area identified for the proposed solar park (approximately 67.5%).
- 7.54 The approved grid connection and associated transmission cabling falls within a category of National Development identified in Annex A of NPF3 that being the High Voltage Electricity Transmission Network including new and/or upgraded electricity cabling in excess of 132 kv and new and /or upgraded onshore converter stations directly linked to onshore and/or offshore electricity transmission cables. The associated statement of need states:
- 'These classes of development are needed to support the delivery of an enhanced high voltage electricity transmission grid which is vital in meeting national targets for electricity generation, statutory climate change targets, and security of energy supplies'
- 7.55 In respect of the projects in the Firths of Forth and Tay, NPF3 states 'we also expect proposals for offshore wind to come forward off the Firths of Forth and Tay'. It is therefore considered that NPF3 states a strong expectation that the offshore developments with which the onshore connection approved under ref: 13/00469/PPPM will be realised. This view is strengthened further by the recent grant of consent by Ministers on 10 October 2014 for the Seagreen Alpha and Bravo Phase 1 offshore wind farms.
- 7.56 In all but exceptional circumstances competing land uses on the same land will not generally be a material consideration for the purposes of determining planning applications. The applicant and the land owner have put forward legal arguments to support the view that this application should be approved. Arguments are also advanced as to whether the onshore works associated with the Seagreen proposal comprise part of the national development. An objector has put forward legal argument to support the view that a development that compromises the deliverability of a national development should not be supported.
- 7.57 Legal cases stated in support or objection of any planning application will rarely match the exact circumstances of the case. The objector's legal argument is relevant to a case where an infrastructure project of national importance was afforded significant weight due to its importance and desirability in the public interest. In response to this the applicant's legal representative has stated from the same case that the likelihood of the development coming about is also a highly material consideration. The applicant's representative also cites a case from a higher court that states that landowners are entitled to do as they wish with their land as long as it is acceptable in planning terms. The case cited gave several propositions that were statements of law in considering cases where competing future uses were under consideration. The propositions include well established principles such as the ability to have a number of alternative approvals on the same land if they are acceptable in planning terms, whether the development would amount to planning harm, the irrelevance of relative advantages of competing uses, the irrelevance of alternative proposals and perhaps most

notably that even in exceptional circumstances where alternative proposals might be relevant, inchoate or vague schemes and/or those likely to have no real possibility of coming forward should be considered irrelevant or given no weight.

- 7.58 In this case the alternative proposal is an identified national project albeit that it was not so at the time of its initial consideration. This does not however mean that a clear and up-to-date statement of national policy can be set aside. While the onshore works are a relatively small part of the overall Seagreen project, it is nonetheless a vital component. At the time that the applicant's representative made initial submissions, there was no offshore development consent issued for the Seagreen projects.
- 7.59 It may have been argued at that point that there was a degree of uncertainty about whether or not the scheme would secure the necessary ministerial approval and then be implemented although the complexity of the design and consent process involved does require a significant lead-in time and this much is understood. The recent granting of the relevant offshore consent and electrical consents for the projects does however add additional weight to them as projects that are likely to be realised. There is nothing vague about the wording or the intent of NPF3 in this respect and there is nothing in the actions of the offshore developer to suggest that the project is not being progressed with a view to undertaking the development.
- 7.60 The ability of Seagreen to compulsorily acquire the site or otherwise is considered to be of limited relevance to considering whether or not to grant planning permission for the solar park. The matter of co-existence; desirable as it may be is again of limited relevance. If it had been the intent of the applicant to bring forward a scheme that allowed co-existence to take place, then the proposal would have reflected this in the first instance. The southern section of the site lies outwith the Seagreen site as identified in 13/00469/PPPM and could have been brought forward for development separately without any potential for conflict with the national development on an area of the site that is largely un-cropped as opposed to the balance of the site which is agriculturally productive.
- 7.61 Draft layouts showing the 'no development' area that the applicant has referred to in submissions were tabled at a late stage however these schemes are not based on detailed designs for the onshore connection scheme and could not have been accepted as amendments to the submitted scheme in any case as they would have materially changed the proposal both in terms of its physical attributes and description. It was clear at the time of application what the extent of the consented area for the Seagreen development was. In the absence of detailed designs, any co-existence proposal is purely speculative at this stage. The site that was approved under reference 13/00469/PPPM should therefore be taken to be the extent of the Seagreen development site for the purposes of considering this application and the development must be considered as submitted.
- 7.62 Furthermore, it has always been understood that the Seagreen onshore connection is prescribed by the National Grid and there is therefore limited flexibility around this matter as opposed to the location of a solar array that can be relatively flexibly located subject to relevant planning considerations. In light of this it is considered that to bring forward competing alternative development on land consented and identified as being required for the realisation of an identified national development in terms of NPF3 would at best be short sighted. It is the purpose of the planning system to regulate the use of land in the public interest and as the High Voltage Electricity Transmission Network installation and upgrade is an identified national development there is a clear long term public interest to be served through ensuring that the necessary installation and upgrade works are realised. The development of Seagreen Alpha and Bravo and the resultant electrical generation capacity has far greater potential to be in the public interest than the application under consideration. NPF3 states that planning authorities should enable national developments.
- 7.63 Siting the proposed solar farm on land that has been identified and consented for a national development could delay the delivery of that national development. For example, if the solar farm was to be commissioned before the onshore grid connection project proceeds there could be un-programmed delay in the delivery of the national development; indeed it could introduce uncertainty in any compulsory purchase process. Such circumstance could compromise the deliverability of the national development and the submissions made in objection by the developer of the proposed national development add further weight to this view.

- 7.64 It is recognised that the proposal would deliver some environmental benefit through the production of renewable energy. However the identified generation capacity of 31MW (which would likely be reduced if the scheme was revised to allow co-existence with the national development) is small in comparison to the generation capacity of 1050MW that would be provided by the offshore wind turbine development. Accordingly it is considered that the public interest lies with ensuring that a proposal that could prejudice delivery of a national development is not permitted.
- 7.65 The other issues raised in representations by third parties and by the Community Council do not give rise to any issues that would change the recommendation for refusal.
- 7.66 In summary the proposal attracts some support from the development plan. However, it also gives rise to some tension with Policy 6 of TAYplan as the proposal has not been justified in the context of inconsistency with a national development as identified in the National Planning Framework. The NPF3 is a material consideration in the determination of this application and it is considered that this proposal could compromise the deliverability of a national development. In these circumstances it is considered that the application should be refused.

8. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

9. CONCLUSION

It is recommended that the application be refused for the following reasons.

1. *Reason: That the development as proposed would impede the realisation of a national development as defined in NPF3.*
2. *Reason: That the development as proposed is not consistent with NPF3 as such is contrary to Policy 6 of TAYplan which requires renewable energy proposals to be consistent with the National Planning Framework and its Action Programme.*

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

P&P/IM/MA

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Date: 13.11.2014

Appendix 1 - Development Plan Policies

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S4 : Environmental Protection

Where development proposals raise issues under environmental protection regimes, developers will require to demonstrate that any environmental protection matter relating to the site or the development has been fully evaluated. This will be considered alongside planning matters to ensure the proposal would not unacceptably affect the amenity of the neighbourhood.

Policy S6 : Development Principles (Schedule 1)

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

(a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.

(b) Proposals should not result in unacceptable visual impact.

(c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

(d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.

(e) Access to housing in rural areas should not go through a farm court.

(f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.

(g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

(h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)

(i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.

(j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.

- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- (o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- (p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).
- (q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)
- (r) Development should minimise waste by design and during construction.

Supporting Information

- (s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy ER4 : Wider Natural Heritage and Biodiversity

The Council will not normally grant planning permission for development that would have a significant adverse impact on species or habitats protected under British or European Law, identified as a priority in UK or Local Biodiversity Action Plans or on other valuable habitats or species.

Development proposals that affect such species or habitats will be required to include evidence that an assessment of nature conservation interest has been taken into account. Where development is permitted, the retention and enhancement of natural heritage and biodiversity will be secured through appropriate planning conditions or the use of Section 75 Agreements as necessary.

Policy ER16 : Development Affecting the Setting of a Listed Building

Development proposals will only be permitted where they do not adversely affect the setting of a listed building. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls.

Policy ER18 : Archaeological Sites of National Importance

Priority will be given to preserving Scheduled Ancient Monuments in situ. Developments affecting Scheduled Ancient Monuments and other nationally significant archaeological sites and historic landscapes and their settings will only be permitted where it can be adequately demonstrated that either:

- (a) the proposed development will not result in damage to the scheduled monument or site of national archaeological interest or the integrity of its setting; or
- (b) there is overriding and proven public interest to be gained from the proposed development that outweighs the national significance attached to the preservation of the monument or archaeological importance of the site. In the case of Scheduled Ancient Monuments, the development must be in the national interest in order to outweigh the national importance attached to their preservation; and
- (c) the need for the development cannot reasonably be met in other less archaeologically damaging locations or by reasonable alternative means; and
- (d) the proposal has been sited and designed to minimise damage to the archaeological remains.

Where development is considered acceptable and preservation of the site in its original location is not possible, the excavation and recording of the site will be required in advance of development, at the developer's expense.

Policy ER19 : Archaeological Sites of Local Importance

Where development proposals affect unscheduled sites of known or suspected archaeological interest, Angus Council will require the prospective developer to arrange for an archaeological evaluation to determine the importance of the site, its sensitivity to development and the most appropriate means for preserving or recording any archaeological information. The evaluation will be taken into account when determining whether planning permission should be granted with or without conditions or refused.

Where development is generally acceptable and preservation of archaeological features in situ is not feasible Angus Council will require through appropriate conditions attached to planning consents or through a Section 75 Agreement, that provision is made at the developer's expense for the excavation and recording of threatened features prior to development commencing.

Policy ER28 : Flood Risk Assessment

Proposals for development on land at risk from flooding, including any functional flood plain, will only be permitted where the proposal is supported by a satisfactory flood risk assessment. This must demonstrate to the satisfaction of Angus Council that any risk from flooding can be mitigated in an environmentally sensitive way without increasing flood risk elsewhere. In addition, limitations will be placed on development according to the degree of risk from coastal, tidal and watercourse flooding. The following standards of protection, taking account of climate change, will be applied:-

- In Little or No Risk Areas where the annual probability of flooding is less than 0.1% (1:1000 years) there will be no general constraint to development.
- Low to Medium Risk Areas where the annual probability of flooding is in the range 0.1% - 0.5% (1:1000 – 1:200 years) are suitable for most development. Subject to operational requirements these areas are generally not suitable for essential civil infrastructure. Where such infrastructure has to be located in these areas, it must be capable of remaining operational during extreme flood events.
- Medium to High Risk Areas (see 2 sub areas below) where the probability of flooding is greater than 0.5% (1:200 years) are generally not suitable for essential civil infrastructure, schools, ground based electrical and telecommunications equipment.
 - (a) Within areas already built up sites may be suitable for residential, institutional, commercial and industrial development where an appropriate standard of flood prevention measures exist, are under construction or are planned.
 - (b) Undeveloped or sparsely developed areas are generally not suitable for additional development.

Policy ER30 : Agricultural Land

Proposals for development that would result in the permanent loss of prime quality agricultural land and/or have a detrimental effect on the viability of farming units will only normally be permitted where the land is allocated by this Local Plan or considered essential for implementation of the Local Plan strategy.

Policy ER34 : Renewable Energy Developments

Proposals for all forms of renewable energy developments will be supported in principle and will be assessed against the following criteria:

- (a) the siting and appearance of apparatus have been chosen to minimise the impact on amenity, while respecting operational efficiency;
- (b) there will be no unacceptable adverse landscape and visual impacts having regard to landscape character, setting within the immediate and wider landscape, and sensitive viewpoints;
- (c) the development will have no unacceptable detrimental effect on any sites designated for natural heritage, scientific, historic or archaeological reasons;
- (d) no unacceptable environmental effects of transmission lines, within and beyond the site; and
- (e) access for construction and maintenance traffic can be achieved without compromising road safety or causing unacceptable permanent change to the environment and landscape, and
- (f) that there will be no unacceptable impacts on the quantity or quality of groundwater or surface water resources during construction, operation and decommissioning of the energy plant.

TAYplan Strategic Development Plan

Policy 6 : Energy and Waste/Resource Management Infrastructure (Extract)

C. Local Development Plans and development proposals should ensure that all areas of search, allocated sites, routes and decisions on development proposals for energy and waste/resource management infrastructure have been justified, at a minimum, on the basis of these considerations:

- The specific land take requirements associated with the infrastructure technology and associated statutory safety exclusion zones where appropriate;
- Waste/resource management proposals are justified against the Scottish Government's Zero Waste Plan and support the delivery of the waste/resource management hierarchy;
- Proximity of resources (e.g. woodland, wind or waste material); and to users/customers, grid connections and distribution networks for the heat, power or physical materials and waste products, where appropriate;
- Anticipated effects of construction and operation on air quality, emissions, noise, odour, surface and ground water pollution, drainage, waste disposal, radar installations and flight paths, and, of nuisance impacts on of-site properties;
- Sensitivity of landscapes (informed by landscape character assessments and other work), the water environment, biodiversity, geo-diversity, habitats, tourism, recreational access and listed/scheduled buildings and structures;
- Impacts of associated new grid connections and distribution or access infrastructure;
- Cumulative impacts of the scale and massing of multiple developments, including existing infrastructure;
- Impacts upon neighbouring planning authorities (both within and outwith TAYplan); and,
- Consistency with the National Planning Framework and its Action Programme.