

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 16 AUGUST 2022

PLANNING APPLICATION - ARBIKIE DISTILLERY, DRUMBERTNOT, MONTROSE

GRID REF: 367074: 752381

REPORT BY SERVICE LEAD – PLANNING & SUSTAINABLE GROWTH

**Abstract:** This report deals with application No. [21/01002/FULL](#), submitted by Arbikie Highland Estate Distillery, which proposes the erection of a wind turbine (up to 76.5m blade tip) and the formation of a hydrogen electrolysis and storage compound which includes a hydrogen electrolysis plant, cooling equipment and other ancillary works located directly to the north of the existing Arbikie Distillery complex. This application is recommended for conditional approval.

**1. RECOMMENDATION**

It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

**3. INTRODUCTION**

3.1 Full planning permission is sought for the erection of a wind turbine and the formation of hydrogen electrolysis and storage compound which includes a hydrogen electrolysis plant and associated works at Drumbertnot by Montrose. A plan showing the location of the site is provided at Appendix 1.

3.2 The application site comprises three distinct areas. The first area sits to the north of Arbikie Distillery at Drumbertnot and comprises an area of agricultural land measuring around 3200sqm. The second area is linear in nature and extends from Drumbertnot in a westerly direction to the north of the U475 public road for a distance in the region of 1.8km. The third is an area of agricultural land measuring around 2900sqm located to the north of the U475 in the vicinity of Cothill.

3.3 The proposal seeks planning permission to form a hydrogen electrolysis and storage facility on that part of the site that lies to the north of Drumbertnot. A compound would be formed adjacent to existing distillery buildings, and it would contain hydrogen electrolysis plant and associated cooling equipment, four hydrogen storage silos, and ancillary equipment. The compound would measure around 625sqm and would be enclosed by a 1.8m high wire fence and hedge. A substation would be located on land to the east of the compound, and a new boiler flue, measuring 13m to ground level would be erected on the roof of an existing distillery building to the south of the compound. In addition, the proposal involves the erection of a wind turbine at the

western extent of the site adjacent to a track that runs northwards from the U475 in the vicinity of Cothill. The turbine would have a maximum height to blade tip of 76.5m, with a hub height of 46m and a rotor diameter of 61m. A hardstanding laydown area, substation, and an associated building would sit adjacent to the turbine. The hydrogen facility and the wind turbine would be connected by an underground cable. The cable would extend to around 1.8km in length and would follow the rough alignment of the U475 to its north. The proposed cable trenches would be 1.3m wide and 1.1m deep. Underground pipework would connect the hydrogen plant to a boiler located within the existing building to the south.

- 3.4 The proposal would utilise the energy produced by the wind turbine, to power a green hydrogen electrolyser (green hydrogen is hydrogen produced via electrolysis using electricity from a renewable source) located in the proposed compound at Arbikie. The electrolyser would then use water to create hydrogen and oxygen. The hydrogen created by the electrolyser would be a renewable energy source and would be stored in silos located within the proposed compound. The green hydrogen would be directed to the hydrogen boiler proposed within the existing boiler house. The hydrogen boiler would be used to heat the distilleries stills.
- 3.5 The application has been varied to include the installation of cooling equipment within the hydrogen plant compound, and to include the erection of a flue on an adjoining shed within the wider distillery complex.
- 3.6 The application has been subject of statutory neighbour notification and was advertised in the press as required by legislation.

#### **4. RELEVANT PLANNING HISTORY**

- 4.1 Planning permission (ref: [13/00654/FULL](#)) was granted on 13 September 2013 for the change of use of an agricultural building to form a distillery at Drumbertnot Farm. That planning permission has been implemented.
- 4.2 Planning permission (ref: [18/00456/FULL](#)) was granted on 21 December 2018 for the erection of a distillery visitor centre building with café, restaurant, office, meeting room and bar and the formation of a parking area, access road and access junction at Arbikie Distillery, Drumbertnot. That planning permission has been implemented.
- 4.3 A planning application (ref: [22/00296/FULL](#)) was granted on 6 July 2022 for the creation of a borehole, an associated storage shed and other ancillary works on land to the north of the current application site. The borehole would provide a water source to serve the proposed hydrogen electrolysis plant.

#### **5. APPLICANT'S CASE**

- 5.1 The following documents have been submitted in support of the application:
- Planning, Design and Access Statement
  - Landscape and Visual Assessment, including associated drawings and images
  - Turbine Selection Assessment
  - Ecological Assessment (Parts 1 and 2)
  - Turbine Manufactures Noise Details
  - Industrial Noise Assessment
  - Air Quality Information
  - Emissions Impact Assessment and Flue Calculations
  - Road Construction Accommodation Works – Initial Access Review
  - Agents additional information – shadow flicker / emissions/ visual impact

Information has also been provided to indicate that the properties at 1-5 Drumbertnot Cottages and Drumbertnot Farmhouse as owned and occupied by persons financially involved in the development.

5.2 The information submitted in support of the application is available to view on the [Public Access](#) system and is summarised at Appendix 2.

## 6. CONSULTATIONS

6.1 **Angus Council – Environmental Health** – offers no objection subject to a number of conditions to regulate noise, air quality, shadow flicker, and water supply.

6.2 **Angus Council – Roads** – no objection subject to the submission and implementation of a Traffic Management Plan.

6.3 **Archaeology Service** – no objection and advises no archaeological mitigation is required.

6.4 **NatureScot** – advise the proposal will not adversely affect the integrity of the Montrose Basin SPA.

6.5 **RSPB** – no response.

6.6 **SEPA** – no objection.

6.7 **Scottish Water** – no objection.

6.8 **Dundee Airport** – no objection and advise that at the given position and height the proposal would not infringe the safeguarding criteria for Dundee Airport.

6.9 **Civil Aviation Authority** – no response.

6.10 **MOD** – no objection subject to the provision of appropriate lighting.

6.11 **NATS** – no objection.

6.12 **Aitkins** – no objection.

6.13 **Joint Radio** – no objection.

6.14 **Community Council** – no response.

## 7. REPRESENTATIONS

7.1 27 letters of representation have been received, 16 raise objection and 11 offer support. The letters are provided at Appendix 3 and can be viewed on the council's [Public Access](#) website.

7.2 The following concerns have been raised in objection to the proposal and are discussed under Planning Considerations below: -

- Unsuitable location in open countryside with impacts upon landscape and skyline and unacceptable visual impact
- Turbine of an unacceptable scale
- Adverse impacts upon birds, including pink footed geese
- Adverse impacts upon Gighty burn water course
- Adverse impacts upon road, traffic, and pedestrian safety
- Adverse impacts upon tourism, businesses, and employment
- Adverse impacts upon core paths and users of the area
- Development not in the public interest

In addition, concern has been raised that properties at Mountboy have not received

notification of the application. Neighbour notification and advertisement of the application has been undertaken in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. In addition, details of the application have been published on the council's Public Access system. Parties that have not been directly notified on an application can and have commented.

7.3 The following matters have been raised in support of the proposal and are discussed under Planning Considerations below: -

- Voluntarily commitment from small business to remove reliance on fossil fuel
- The application site is not in a protected area and complies with development plan policy
- No objection or concerns with regards to amenity impacts
- Environmentally friendly whilst benefitting future generations
- Opportunity to demonstrate innovation and feasibility of this energy source
- Assist in meeting Scotland's net zero goal

## 8. PLANNING CONSIDERATIONS

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

8.2 In this case the development plan comprises: -

- [TAYplan](#) (Approved 2017)
- [Angus Local Development Plan](#) (ALDP) (Adopted 2016)

8.3 The development plan policies relevant to the determination of the application are reproduced at Appendix 4 and have been considered in preparing this report.

8.4 The development plan framework provides policies that deal specifically with applications for renewable energy development and associated infrastructure. Those policies support proposals for renewable energy development and associated development subject to assessment against identified criteria. The renewable energy policy in the ALDP is supported by statutory supplementary guidance.

8.5 The key development plan issues in relation to this application are: -

- Landscape and visual impact;
- Impact on amenity;
- Impact on natural and built environment;
- Impact on road network and access in the area;
- Impact on the water environment;
- Impact on infrastructure and other land uses; and,
- Site decommissioning and restoration.

8.6 Development plan policy requires consideration of landscape and visual impact. Policy indicates that the capacity to accept new development in the landscape will be considered in the context of the Tayside Landscape Character Assessment (TLCA) and relevant landscape capacity studies, formal designations, and special landscape areas. 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, and public access routes. Additionally, the council has produced and adopted supplementary guidance that deals with renewable energy and low carbon energy development, and it has undertaken a strategic landscape capacity assessment for wind energy development in Angus.

- 8.7 The landscape and visual impacts associated with the hydrogen electrolysis plant and storage compound, including the associated flue would not be significant. These works would be adjacent to the existing distillery complex and would be viewed in the context of the existing buildings which are of agricultural appearance. A fenced compound with associated plant and equipment would not look out of place in such setting and its scale is not inappropriate for the location. At a very localised level, it would give rise to visual impact for occupants of the houses in the immediate vicinity, but such impact would not be unusual in a rural area, and it would not be unacceptable. The landscape and visual impacts would be localised and would not be unacceptable.
- 8.8 The proposed wind turbine would be located within the area identified as 'Dipslope Farmland' by the Tayside Landscape Character Assessment, and within subcategory vi) 'Rossie Moor' landscape character type as defined by the council's Strategic Landscape Capacity Assessment for Wind Energy. Within the Rossie Moor landscape type, published guidance indicates that there is potential for occasional wind turbines, and it indicates there is some capacity for turbines within the 50 - 80m height range. The guidance seeks to avoid skylining effects on Montrose Basin, and the visual domination of sensitive landscape and visual receptors, including residential properties, Rossie Moor, Rossie School, Dunninald designed landscape and A listed buildings. It suggests that turbines in the identified size range should be located to avoid effects on the coastal landscapes, Lunan valley and Lunan Bay. It indicates that a separation distance in the region of 5-10km should be maintained between turbines in the 50 – 80m height category.
- 8.9 The applicant has submitted a Landscape and Visual Appraisal in support of the proposal. It indicates that no significant effects are predicted on any sensitive landscape character types or landscape designations within the study area. It notes the proposal would generally conserve the key landscape and visual sensitives of the Rossie Moor sub-area, its integrity, and associated rural quality. It states most of the Lunan Valley would be unaffected by the development, as would Montrose Basin and associated coastline. It acknowledges the proposal would result in changes to a rural landscape, but suggests the greater magnitudes are all experienced close to the turbine. It suggests that in general, from most areas beyond a distance of around 2km, intervening landform, trees, woodland and other landcover, would tend to restrict the nature and extent of adverse changes to the more sensitive parts of this landscape. It concludes that no significant cumulative effects are predicted.
- 8.10 In relation to visual impacts, the applicant's Landscape and Visual Appraisal provides a number of viewpoints which were identified as being representative of visual receptors in the area. It suggests that the development would result in some very localised significant visual effects within 2km of the turbine. The statement indicates that at locations where the most significant effects would be experienced, the turbine would not appear dominant or over-bearing. It suggests that the site was selected within one of the largest scale areas of the Rossie Moor sub-area to help offset any adverse comparison in scale, and the site and turbine height avoids adverse effects on the skyline of the Montrose Basin, Lunan valley and Lunan Bay, Rossie Moor, and Dunninald Garden and Designed Landscape. It indicates that the site would have a separation distance in the region of 5km from other wind turbines over 40m in height, and this helps to minimise adverse cumulative effects.
- 8.11 The applicant's assessment of landscape impact is reasonable. The proposed turbine would generally be compliant with the council's published guidance on the location of turbines of this scale within this area and would be consistent with the objectives to minimise landscape impacts. While the turbine would be a prominent and locally dominant feature, the landform is such that impacts would be localised. This is an area where there are larger scale field patterns, and this makes it suitable to accommodate a turbine on the size proposed.

- 8.12 There are existing residential properties in proximity to the proposed wind turbine. The closest are at Cothill to the south (circa 620m); Mountboy to the north (circa 900m); Cotton of Arbikie to the southwest (circa 1km); Renmure and Pamphry to the west/northwest (circa 1.4km); and Drumbertnot to the northeast (circa 1.5km). There is also an extant planning permission (ref: [21/00662/FULL](#)) for a new house on the site of derelict farm buildings to the north of the turbine in the vicinity of Mountboy (circa 870m).
- 8.13 In general terms, the applicant's assessment of visual impact is reasonable, but the significance of impact on residential property is generally understated. Most properties within 2km of the wind turbine would experience significant adverse visual impact as a consequence of its presence. While localised screening would reduce the turbines impact from some properties, its height and moving blades would draw attention. Greatest impact would likely be experienced by those properties to the north, in particular the as yet unbuilt house, that have an elevated position and an open aspect in a southerly direction. From those, and other properties in the immediate locale, the turbine would largely be unavoidable, and visual impact would be significant. All residents would experience the visual effects of the wind farm when out and about travelling to or from their homes or taking recreational walks. However, this is a single turbine and the arc of view from any property that would be affected would be limited. Most, if not all affected properties would have views and outdoor areas where the impact of the turbine would be less significant. While the properties at Cothill are very close to a turbine of this size, the easterly most property has the benefit of some screening from the turbine by virtue of the disused quarry to its north, and the westerly most property has views to the south from its private garden area.
- 8.14 Planning policy recognises that it may be appropriate to grant planning permission in circumstances where development gives rise to significant impact; significant does not equate to unacceptable. The approach adopted by the council in determining the acceptability of an impact associated with a wind turbine proposal, informed by planning appeal decisions, has been to consider whether turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, such that the property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It is not in the public interest to create such living conditions where they did not exist before. In this case, the affected properties would remain attractive places to live with a generally high standard of amenity, notwithstanding the presence of the turbine. In reaching this conclusion account is taken of the height of the turbine and its distance to neighbouring property; the arc of view from the properties that would be affected by the turbine; the presence of localised screening in the environs of affected properties; and the availability of areas around properties where the impact of the turbine would be more limited.
- 8.15 The zone of theoretical visibility (ZTV) plans suggest that the turbine would be visible from the environs of Dunninald Castle which is a designed landscape and category A listed building. However, the ZTV's do not take account on landscape features such as trees and buildings. Photomontage and wireline drawings indicate that visibility from Dunninald would be limited, and impact on the special interest of the site would not be significant. Similarly, while there is theoretical visibility from Lunan Bay, the turbine is unlikely to be visible from the car park by virtue of landform and landscape features. The turbine may be visible from the beach or from the crest of dunes, but at the distance involved, and having regard to landscape features, it is unlikely to be a significant feature. Visibility from the Lunan Valley in the proximity of the site would be limited. Information indicates the turbine would not be visible from Montrose Basin or from the frontage of House of Dun. There would be clear and reasonably unobstructed views of the turbine from the core path to the north on Rossie Moor and from other core paths in the area, including at Newbarns. The impact on the Rossie Moor core

path would be significant and adverse but impacts on the path network in the vicinity of Newbarns would be more limited by virtue of distance. Issues regarding impact on recreational access are discussed further below, but the visual impacts of the proposed turbine on other sensitive viewpoints are not considered to be unacceptable.

- 8.16 The ZTV indicates there would be some visibility of the turbine from the A92, particularly to the south. Near the site, it would be visible on the A92 from around Courthill in the west to the Dunninald junction in the east, generally at a distance of at least 1km. The significance of impact would vary depending upon distance, landform, and presence of intervening landscape features, but the visual impact would not be greater than is commonly experienced while passing wind turbines on the road network. There would be more significant impacts on the local road network to the north of the A92 in the vicinity of the turbine where it would be a prominent and unavoidable feature. However, that local road network is relatively lightly trafficked, and the significant impact would be overly relatively short distance. The ZTV indicates that visibility from the railway would be limited. Overall, visual impact on the transport network would not be unacceptable.
- 8.17 There are other developments within the wider area that contribute to cumulative landscape and visual impacts, including the radio mast at Rossie School (around 50m total height), other wind turbines, and other commercial and agricultural buildings. The council's published guidance suggests that the limit of future development in the area should ensure that this is a landscape with occasional wind turbines. While the proposed turbine would be visible from many areas where other turbines are visible within the dipslope farmland landscape character type, the size would be comparable with other larger turbines in the area, the spacing would be consistent with the policy guidance, and the combined impact would be within the maximum capacity specified in the landscape capacity assessment. This would be a landscape with occasional wind turbines. The proposal would not give rise to significant cumulative impacts in relation to other relevant matters.
- 8.18 Overall, while the proposal would give rise to some significant adverse landscape and visual impact, particularly in the vicinity of the wind turbine, those impacts are not considered unacceptable.
- 8.19 Development plan policy requires consideration of the impact of development on residential amenity and seeks to prevent unacceptable impacts that would adversely affect the occupants of residential property. Visual amenity matters have been discussed above. In this case the main amenity impacts relate to those associated with construction activity and with residual impacts associated with ongoing operation of the turbine and the hydrogen plant.
- 8.20 The construction works would only take place over a short time frame, but there are noise sensitive receptors which could be affected by the operation of both the turbine and the hydrogen plant. The environmental health service has reviewed the submitted Noise Assessment and other submitted noise data and has indicated that appropriate planning conditions could be used to control predicted operational noise from the proposed infrastructure. Conditions, as recommended by environmental health, are proposed to deal with operational noise from the hydrogen plant and the wind turbine.
- 8.21 The information submitted by the applicant indicates that the turbine site has been chosen to minimise potential impact from shadow flicker. Available guidance suggest that properties located more than a 10-rotor diameter distance from a turbine (610m) are unlikely to be significantly affected by shadow flicker. There are no properties within this distance from the proposed turbine. However, submitted information indicates that the properties at Cothill could experience shadow flicker, but it is suggested that this would be within recognised tolerances. The environmental health service has indicated that safeguarding of neighbouring properties from potential shadow flicker impacts could be controlled by condition.

- 8.22 The submitted Air Quality Impact Assessment and other supporting information indicates the proposed hydrogen plant would not have a significant impact on the nearest designated ecological receivers or species or human health. It is also indicated that the proposal would reduce reliance upon an existing oil fuelled boiler which uses 240,000 litres of gas oil per year, and which produces atmospheric emissions. The council's environmental health service and SEPA have both considered the emissions from the proposed plant and offer no objection. The combustion of hydrogen at the site (and the operation of the turbine) would not result in a significant impact on air quality.
- 8.23 Overall while the proposal would give rise to some impacts on amenity, it is considered that, subject to the proposed conditions, those impacts could be mitigated to ensure that they do not unacceptably affect the amenity of occupants of nearby property.
- 8.24 Development plan policy seeks to ensure that proposals do not give rise to unacceptable impacts on the road network and recreational access. The main impacts associated with the proposal arise from traffic generated during the construction phase, and the turbine components would need to be delivered by HGVs capable of carrying abnormal loads. The site is served by the existing public road network and information submitted by the applicant indicates that components could be delivered without any significant impact on that network. The council's roads service has offered no objection to the proposal and a requested condition requiring submission and implementation of measures identified in a traffic management plan is proposed. The proposal would not give rise to any unacceptable impacts on the road network or road safety.
- 8.25 As indicated above the wind turbine would be readily visible from path networks in the vicinity of the site, including the core path at Rossie Moor. The Moor, and land in its vicinity offer recreational opportunities, and there are paths that lead to and from it. Visual impact on the core path would generally be significant and adverse, particularly over that section that extends from Pamphry in the west to the woodlands in the vicinity of Rossie School in the east. However, visibility on that section that runs between the woodlands at Rossie School in the south to Bonnyton in the north would be more limited by virtue of landform and landscape features, including the woodland. Similarly, while the core path in the vicinity of Westerton of Rossie may experience some visibility, particularly at its southern extent, existing woodland cover would provide some screening. There would remain areas on Rossie Moor where the turbine would not be visible. The turbine would be visible, dominant, and largely unavoidable from the network of informal paths and tracks that run between Arbikie in the south and Rossie Moor in the north. Noise associated with the turbine would be audible on those sections of the informal path network in its immediate vicinity but would not be a noticeable feature on the core path network or from that part of Rossie Moor where there is most likely to be recreational activity. Overall, the turbine would not reduce the quality of recreational access in the wider area to a level that could be considered unacceptable.
- 8.26 Development plan policy seeks to safeguard natural heritage interests, including designated sites and protected species. The application site is not designated for any natural heritage reasons. The applicant's supporting information includes surveys and appraisals of potential impacts on various species. The survey identifies seven designated sites of natural heritage value within 5km of the site. The applicant's assessment indicates that, given separation distances, a lack of direct hydrological connectivity, and a lack of suitable habitat, it is not anticipated the proposal would have any unacceptable impact upon the nearest Sites of Special Scientific Interest (SSSI) or the River South Esk Special Area of Conservation (SAC). Montrose Basin is designated as a SSSI, Special Protection Area (SPA) and RAMSAR site, and it is indicated there is the potential for bird species that have led to the ornithological designations, to use habitats in the vicinity of the proposed development with consequential potential for a loss of habitat/ displacement, as well as collision mortality for greylag geese and pink-footed geese. It is indicated that the turbine would also



create a collision mortality risk for bats. However, it is suggested that the loss of greylag geese and pink-footed geese habitat would be negligible, as would collision risk for both geese and bats. It is concluded that impact on protected species and habitats would not be unacceptable.

- 8.27 NatureScot has indicated that the proposal is likely to have a significant effect on the greylag and pink-footed geese of Montrose Basin SPA. However, it has indicated that the development would not adversely affect the integrity of Montrose Basin SPA given the low collision rate predicted (0.22 geese per year), existing measures in place to discourage geese from feeding in surrounding fields, and the presence of adequate foraging habitat in range of the SPA. NatureScot has offered no objection in relation to the impact of the development on bats or on any other species. Having regard to the supporting ecological information and the responses received from consultation bodies, it is considered that the proposal would not give rise to unacceptable impacts on natural heritage interests. In accordance with the requirements of the habitats directive, an appropriate assessment has been prepared having regard to relevant information and the advice provided by NatureScot. The appropriate assessment concludes that the development would not adversely affect the integrity of Montrose Basin.
- 8.28 Development plan policy seeks to safeguard built and cultural heritage interests including listed buildings, conservation area, designated gardens and landscapes and sites of archaeological interest. These matters are addressed in the submitted supporting information which considers the potential impacts of the development on a range of built heritage interests. The applicant's information concludes that the proposal would not give rise to unacceptable impact on built or cultural heritage assets.
- 8.29 The application site is not subject of any built or cultural heritage designation. The council's archaeological advisor has indicated that no archaeological mitigation is required. The proposal would have no direct effects on those designated buildings, sites, or areas. There are designated sites in the wider area, including the designed landscape and listed building at Dunninald, scheduled monuments, and a number of other listed buildings and areas of archaeological interest. The development would be visible from a number of those historic assets, but impact on their setting would not give rise to unacceptable impact given a combination of the nature of their special interests, their orientation, distance, and intervening landform and landscaping. Overall, the proposal would not give rise to any unacceptable impacts on built or cultural heritage interests.
- 8.30 Development plan policy seeks to safeguard the water environment and to ensure that appropriate drainage arrangements are in place. Scottish Water has advised it has no drinking water catchments or water abstraction sources in the area that may be affected by the proposed activity. The hydrogen plant would be served by a private water supply and planning permission for a new bore hole has been granted to the north of the hydrogen compound. SEPA has confirmed it has no objection to the proposal. The council's environmental health service has indicated that a condition should be attached to deal with potential interruption of any private water supply in the event of a pollution event.
- 8.31 The development plan seeks to safeguard prime quality agricultural land, and published maps indicate that the development would occupy class 3.1 prime quality land. However, policy indicates that loss of prime land will be supported where proposals are small scale and directly related to a rural business, or where it constitutes renewable energy development and is supported by a commitment to a restoration bond to facilitate site restoration. In this case the proposal is related to an existing business, it involves renewable energy development, and the amount of agricultural land that would be lost is small. The proposal would not adversely affect the viability of a farm unit and the loss of prime land in this circumstance is compatible with policy. A condition is proposed that requires a bond for restoration of the wind turbine site when it is no longer required.

- 8.32 In relation to other development plan policy matters, relevant consultation bodies, including Dundee Airport, NATS, and the MOD, have confirmed that the proposal would not adversely affect aviation interests. Similarly, consultation has indicated that there is unlikely to be any adverse impact on telecommunications facilities. The underground cable connection between the wind turbine and the hydrogen production plant would not give rise to any unacceptable impacts, and connection to the grid could be taken in the vicinity of an existing pole mounted transformer at Drumbertnot.
- 8.33 The proposed development would give rise to some adverse impact particularly in relation to landscape and visual amenity. However, those adverse impacts do not in themselves make the proposal contrary to the development plan. Policy generally recognises that some adverse impact may be expected in association with development proposals and the key test is whether those impacts are so significant as to be unacceptable. In reaching a conclusion in relation to those matters it is necessary to consider the proposal in the round, having regard to all relevant policies and the overall aims and objectives of the development plan. In this respect, the development plan provides strong support for proposals that provide for the generation of renewable energy, and the development is compatible with a large number of development plan policies. Significant adverse landscape and visual impacts would affect a localised area, but there is locational justification for the proposal as it is associated with an existing business operation, and there is reasonable justification to indicate that development has been designed to minimise impact, while respecting operational efficiency. In these circumstances it is concluded that the application is compatible with the development plan subject to the proposed planning conditions.
- 8.34 In addition to development plan policy, it is relevant to have regard to other material considerations and in this case, those are material planning issues raised in the letters of representation, Scottish Planning Policy (SPP), the contribution the development would make towards reducing carbon emissions, and draft NPF4 and its associated policy framework.
- 8.35 Representations have been received both in support and opposition to the application. Issues are largely addressed above in relation to the relevant policy discussion and assessment. However, specific matters are addressed below.
- 8.36 The proposed development, and in particular the wind turbine would give rise to significant landscape and visual impact. However, national and local planning policy is generally supportive of renewable energy development, and this proposal is consistent with council guidance on the location of this scale of development. Landscape and visual impact would be localised, and the resultant visual impact would not reduce the amenity of dwellings to a level that would make them unattractive places to live. The affected properties would continue to enjoy a high level of amenity. A lower height turbine would reduce the level of energy delivered to the hydrogen plant and that could adversely impact the viability of the project. The area is not subject to any special landscape or natural heritage designation, and localised impacts must be balanced against the wider benefit associated with production of renewable energy and reduction in carbon emissions.
- 8.37 There is no evidence to suggest that the development would result in unacceptable impact on protected species, important habitats, or wider biodiversity interests in the area, including nearby water courses. NatureScot and SEPA raise no objection.
- 8.38 The development would generate additional traffic on the road network, particularly during construction, and that may cause some localised disruption. However, it would be for a relatively short duration and the council's roads service has no objection to the proposal in term of impacts upon the road network. The roads involved are currently used by distillery traffic, agricultural vehicles and vehicles that transport agricultural produce. A condition is proposed that seeks to mitigate traffic impacts associated with

construction activity. The proposal would not result in an unacceptable impact upon the road network or traffic and pedestrian safety.

- 8.39 There is no evidence to suggest that the proposal would reduce the attractiveness of the area for visitors, and no information in relation to potential adverse economic impact is provided. The proposed development would be associated with the running of Arbikie Distillery, an established local business and source of employment, which has recently opened a new visitors centre. The proposal would reduce the distillery's reliance upon fossil fuels and contribute to a reduction in carbon emissions. The impact on recreational access is difficult to quantify: the presence of the wind turbine and associated noise may make some people less inclined to use the area for recreational purposes. However, there are many examples throughout Scotland where people continue to enjoy recreational access in the vicinity of wind turbine developments, and this is a single turbine of comparatively modest size. There is no evidence that the proposal would have an adverse impact upon tourism, business, and employment in the area, and the resultant reduction in carbon emissions would be in the public interest.
- 8.40 The general points offering support to the proposal are noted, but the application must be determined based on the site-specific assessment having regard to development plan policy and other material planning considerations. However, weight is attached to the absence of objection from relevant consultation bodies, the potential to demonstrate an innovative technology, and the contribution towards carbon emission reduction.
- 8.41 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. TAYplan is less than 5-years old but the ALDP has recently become more than 5-years old as it was adopted in September 2016. 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. The proposal is generally consistent with the relevant sustainable development principles noted within paragraph 29 of SPP and would reduce carbon dioxide emissions, support emission reduction targets, and help to tackle climate change. Supporting information indicates that the development would assist in reducing carbon emissions associated with boiler use at the distillery from around 638 tCO<sub>2</sub>e/year to approximately 320 tCO<sub>2</sub>e/year. The generation of renewable energy and reduction in carbon emissions contributes to sustainable development, and this is a significant material consideration that lends support to the proposal.
- 8.42 NPF4 has been published in draft form and contains national planning policy that will form part of the development plan when it is approved. However, it has been published for consultation purposes and therefore the policies it contains merit little weight at this time. Notwithstanding that, it indicates significant weight should be given to the global climate emergency in determining development proposals and advises that proposals for all forms of renewable energy should be supported in principle. It encourages the diversification and expansion of renewable energy generation and notes greener energy choices, including hydrogen, will be at the heart of the area's future wellbeing economy. It notes both the government and industry in Scotland wish to accelerate and maximise the deployment of green hydrogen. It goes on to identify matters that must be considered in the determination of proposals for renewable energy development. Those matters are consistent with the policies of the local plan.
- 8.43 In conclusion, this proposal provides for the generation of renewable energy and would assist the business in reducing reliance upon oil fuelled boilers, and consequently reduce associated carbon emissions. National and local planning policy is generally supportive of development proposals that provide for renewable energy generation. In

this case relevant consultation bodies have raised no objection to the application in relation to the proposed developments impact on infrastructure, amenity, built and natural heritage interests, or other environmental interests. The proposal could act as a demonstrator project to assist other businesses reduce their carbon emissions.

- 8.44 Notwithstanding that, the proposal would give rise to adverse impact on the landscape and visual amenity of the area, and the amenity of the area for recreational access would be reduced for some users. However, the adverse landscape impact would be localised, and a limited number of properties would experience significant visual impact. In general terms, those properties would retain a high level of amenity and would remain attractive places to live. Some people may find the presence of the wind turbine a deterrent to using the area for recreational purposes and some may not, but there are other locations in the area where countryside recreation can be enjoyed. All adverse impacts must be balanced against the desirability of facilitating a development that would make a contribution towards renewable energy generation and carbon emissions reduction. As indicated above development that contributes towards sustainable development represents a significant material consideration.
- 8.45 The matters raised in objection and in support of the application have been considered in preparing this report and where appropriate matters are addressed by proposed planning conditions. The proposed conditions seek to minimise adverse impacts associated with the development.
- 8.46 The development would contribute towards meeting government energy targets and government guidance confirms that schemes should be supported where the technology can operate efficiently, and environmental and cumulative impacts can be satisfactorily addressed. In this case the technology would appear to have potential to operate efficiently, and available evidence suggests that environmental impacts can be satisfactorily addressed.
- 8.47 The proposed development complies with the development plan and attracts significant support from Scottish Planning Policy subject to the proposed planning conditions. There are no material considerations that justify refusal of the application.

## **9. OTHER MATTERS**

### **HUMAN RIGHTS IMPLICATIONS**

The recommendation in this report for grant of permission/consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

## **10. CONCLUSION**

It is recommended that the application be approved for the following reason, and subject to the following condition(s):

### **Reason(s) for Approval:**

The proposed development would provide a source of renewable energy generation in a manner that would not give rise to unacceptable impacts on infrastructure, amenity, built and natural heritage interests, or other environmental interests subject to

appropriate mitigation subject to appropriate mitigation. The necessary mitigation can be secured by planning conditions and the proposal complies with development plan policy subject to the stated planning conditions. The proposal would contribute to sustainable development. There are no material considerations that justify refusal of planning permission.

**Conditions:**

1. The wind turbine hereby approved shall be removed from the site no later than 26 years after the date when electricity is first generated unless otherwise approved by the planning authority through the grant of a further planning permission following submission of an application. Written confirmation of the commencement date of electricity generation shall be provided to the planning authority within one month of that date.

*Reason: In order to limit the permission to the expected operational lifetime of the wind farm and to allow for restoration of the site.*

2. Should the wind turbine no longer be required or should it cease to generate electricity for a period of six months it shall be removed and the site restored to its previous condition in accordance with the details approved under condition 3(ii) of this permission. The restoration works shall be completed no later than twelve months following the date that the turbine has ceased to generate electricity or as otherwise agreed in writing with the planning authority.

*Reason: In order to ensure that the turbine is removed and the land restored to its previous condition in the event that the turbine is no longer required in the interests of the visual amenity of the area.*

3. That prior to the commencement of the development hereby approved the following information shall be submitted to and approved in writing by the planning authority: -
  - (i) Details of the colour of the wind turbine. Thereafter the turbine shall be finished in accordance with the approved details.
  - (ii) A scheme for the decommissioning and restoration of the turbine site including aftercare measures. The scheme shall set out the means of reinstating the site to agricultural land following the removal of the components of the development. The developer shall obtain written confirmation from the planning authority that all decommissioning has been completed in accordance with the approved plan and works for removal of site apparatus shall be completed within 12 months of the final date electricity is generated at the site.
  - (iii) Written details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration costs on the expiry of the consent/permission period in accordance with the requirements of condition 3(ii). No development shall start on site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the planning authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent/permission. The adequacy of the approved bond or other financial provision shall be subject to a review at five yearly intervals from commencement of development, to be paid for by the developer and conducted by a competent independent professional who has relevant experience within the wind energy sector. The findings of such reviews shall be submitted in writing to the planning authority within 2 months of the anniversary of the commencement of development.

- (iv) A shadow flicker mitigation strategy. The strategy shall consider any sensitive receptors within 1km of the turbine, including the building subject of planning permission 21/00662/FULL. Thereafter the operation of the wind turbine shall take place in accordance with approved strategy unless otherwise approved in writing by the planning authority. In the event that shadow flicker is assessed as exceeding more than 30 minutes in any one day or more than 30 hours in any 12 month period at any sensitive receptor, operation of the turbine shall cease until measures to reduce the duration of shadow flicker to below these limits are implemented. For the avoidance of doubt sensitive receptors includes all residential properties, hospitals, schools and office buildings.
- (v) A Traffic Management Plan which shall consider arrangements for the following:
- a. agreement with the roads authority on the routing for abnormal loads;
  - b. details of the type and volume of vehicles to be utilised in the delivery to the site of construction materials and turbine components associated with the construction and erection of the wind turbine;
  - c. assessment of the suitability of the proposed routes, including bridge capacities, to accommodate the type and volume of traffic to be generated by the development. The assessment shall include details of swept path analyses and include video route surveys in a format to be agreed with the planning authority in liaison with the roads authority;
  - d. any proposed accommodation works/mitigating measures affecting the public roads in order to allow for delivery loads, including carriageway widening, junction alterations, associated drainage works, protection to public utilities, temporary or permanent traffic management signing, and temporary relocation or removal of other items of street furniture;
  - e. the restriction of delivery traffic to agreed routes;
  - f. the timing of construction traffic to minimise impacts on local communities, particularly at during refuse collection, at weekends and during community events;
  - g. a code of conduct for HGV drivers to allow for queuing traffic to pass on Arbikie Road (B965 - U474 - A92);
  - h. liaison with the roads authority regarding winter maintenance on Arbikie Road (B965 - U474 - A92);
  - i. contingency procedures, including names and telephone numbers of persons responsible, for dealing with vehicle breakdowns;
  - j. a dust and dirt management strategy, including sheeting and wheel cleaning prior to departure from the site;
  - k. the location, design, erection and maintenance of warning/information signs for the duration of the works at site accesses and crossovers on private haul roads or tracks used by construction traffic and pedestrians, cyclists or equestrians;
  - l. contingencies for unobstructed access for emergency services;
  - m. co-ordination with other major commercial users of the Arbikie Road (B965 - U474 - A92) in the vicinity of the site;
  - n. traffic management, in the vicinity of temporary construction compounds;
  - o. arrangements for the monitoring, reviewing and reporting on the implementation of the approved plan; and
  - p. procedures for dealing with non-compliance with the approved plan. Thereafter, the development shall be undertaken in accordance with the approved plan.
- (vi) The following information, which the applicant shall also provide to the

- Ministry of Defence (Defence Estates – Safeguarding):
- a. Proposed date of commencement of construction;
  - b. Estimated date of completion of construction;
  - c. Height above ground level of the tallest structure;
  - d. Maximum extension height of any construction equipment;
  - e. Latitude and Longitude of the proposed turbine.
- (vii) A list of proposed independent consultants who may undertake noise compliance measurements in accordance with this permission. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.
- (viii) A construction method statement which details how the development will be constructed in line with best practice guidance to mitigate any potential impact upon protected species found in or around the site. Thereafter the development shall be constructed in accordance with the approved method statement.
- (ix) Details of the boundary fence and planting to surround the hydrogen compound. Thereafter the approved boundary enclosures and planting shall be provided prior to occupation of the compound. Any planting which, within a period of 5 years from the completion of the development, is considered by the planning authority to be dying, severely damaged, or becoming seriously diseased must be replaced by plants of similar size and species to those originally planted in the first available planting season.

*Reason: In order that the planning authority may verify the acceptability of the specified matters, and to ensure operation of the development and reinstatement of the site in a manner that minimises impact on visual and residential amenity, and road traffic infrastructure.*

4. The turbine shall be fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on the turbine prior to the operation of the turbine.

*Reason: In the interests of aviation safety.*

5. The turbine hereby approved shall have no symbols, signs, logos or other lettering by way of advertisement displayed on any part of the wind turbines; and shall not be lit other than for the purposes of aviation safety.

*Reason: In the interests of the visual amenity of the area.*

6. The rating level of noise emissions from the combined effects of the wind turbine (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed LA90 35dB (A) 10min at wind speeds up to 10 m/s at 10m height at any property lawfully existing, or with the benefit of an extant planning permission, at the date of this planning permission. Where an occupant or occupants of a property have a financial interest in the development, the aforementioned limit may be increased to 45dB (A).

For the avoidance of doubt “Financial Interest” is defined as either: -

- a. owning, or having a share in ownership, of the land on which the turbine is to be sited;
- b. leasing the land on which the turbine is sited, such lease shall be for a period exceeding 26 years;
- c. being a current employee of the operator of the wind turbine/ hydrogen plant.

*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

7. The wind turbine operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind turbine operator shall provide this information in the format set out in Guidance Note 1(e) to the planning authority on its request, within 14 days of receipt in writing of such a request.

*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

8. Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind turbine operator shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise emissions from the wind turbine at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

9. Any assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes, where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of the rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request by planning authority to investigate a complaint, and such others as the independent consultant considers likely to result in a breach of the noise limits.

*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

10. The wind turbine operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority for compliance measurements to be undertaken, unless the time limit is extended in writing by the planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise emissions.



*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

11. Where a further assessment of the rating level of noise emissions from the wind turbine is required pursuant to Guidance Note 4(c), the wind turbine operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to condition 10 unless the time limit has been extended in writing by the planning authority.

*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

12. In the event that noise emissions from the wind turbine exceed the levels set by this permission, operation of the turbine shall cease until measures to reduce noise levels in order to comply with this permission are implemented. Should such measures fail to achieve compliance with the noise levels set by this permission, the operation of the turbine shall cease until otherwise approved in writing by the planning authority.

*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

13. In the event of a pollution incident or interruption to supply, caused by the approved development, affecting or likely to affect any private water supply, the developer shall provide an immediate temporary supply to those affected until permanent mitigation can be implemented in accordance with details approved in writing by the planning authority. Any replacement supply shall be of a quality to meet the private water supplies (Scotland) Regulations 1992 or any other appropriate regulation in force at the time. In any case a permanent replacement supply or mitigation measures shall be provided no later than one month after the supply is first affected.

*Reason: In the interests of the safeguarding the amenity of surrounding properties and ensuring private water supplies are not unacceptably impacts upon by the development.*

14. Cumulative noise levels from all plant and equipment associated with the hydrogen generation process shall not exceed the limits specified in table A below.

Table A: Hydrogen generation plant noise limits

<b>Day</b>	<b>Time</b>	<b>Average Period (t)</b>	<b>Noise limits for properties financially involved</b>	<b>Noise limits for properties not financially involved</b>	<b>Notes</b>
Monday - Sunday inclusive	0700 - 2300	1 hour	45 dBA LAr,Tr	40 dBA LAr,Tr	1,2,4
Monday - Sunday inclusive	0700 - 2300	15 minutes	NR35	NR30	3,4
Monday - Sunday inclusive	2300 - 0700	15 minutes	45 dBA LAr,Tr	40 dBA LAr,Tr	1,2,4
Monday - Sunday inclusive	2300 - 0700	N/A	45 dBA Lmax fast response	45 dBA Lmax fast response	3,4

Monday - Sunday inclusive	2300 - 0700	15 minutes	NR25	NR20	3,4
Monday - Sunday inclusive	2300 - 0700	8 hours	30 dBA Leq t	30 dBA Leq t	3,4

Notes for Table A

1. The assessment location shall be free field within the exterior amenity space of any noise sensitive receptor. For the avoidance of doubt sensitive receptors includes all residential properties, hospitals, schools and office buildings or any other similar premises.
2. As measured and rated in accordance with BS4142:1997 – Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas as amended.
3. The assessment location shall be within a bedroom with a window open 50mm for natural ventilation.
4. Where the noise measurement position is not the same as the assessment location the received noise levels shall be predicted using an appropriate methodology.

For the avoidance of doubt “Financial Interest” is defined as either: -

- a. owning, or having a share in ownership, of the land on which the hydrogen plant is to be sited;
- b. leasing the land on which the hydrogen plant is sited, such lease shall be for the duration of the presence and operation of the hydrogen plant;
- c. being a current employee of the operator of the wind turbine/ hydrogen plant.

*Reason: In the interests of the safeguarding the amenity of surrounding properties from noise emissions.*

15. Emissions from the combustion of hydrogen fuel shall discharge vertically from a stack 13m above adjacent ground level.

*Reason: In the interests of the safeguarding the amenity of surrounding properties in terms of air quality.*

16. The amount of hydrogen stored on the site at any one time shall be less than 1 tonne.

*Reason: In order to prevent the storage of a larger amount of hydrogen which could give rise to materially different impacts on the health and safety of the area without full consideration of the acceptability of those impacts by the planning authority.*

**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.

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APPENDIX 1: LOCATION PLAN  
APPENDIX 2: SUMMARY OF APPLICANTS SUPPORTING INFORMATION  
APPENDIX 3: LETTERS OF REPRESENTATION  
APPENDIX 4: DEVELOPMENT PLAN POLICIES  
APPENDIX 5: PLANNING SERVICE PRESENTATION