

WIN-270-10 PROPOSED GOLTICLAY WINDFARM REVISED INQUIRY PROCEDURE NOTICE

This is a corrected version of the procedure notice issued on 24 May 2018. Corrections are shown in red.

1. Introduction

Following the pre-inquiry meeting on the above application, the reporter requested the appellant to submit additional environmental information on:

- the landscape and visual effects of aviation lighting for the proposed development;
- a recent wildcat survey; and
- what works are required to the C1053 to enable the proposed development and what the environmental effects of those works would be.

The reporter indicated he would issue a revised procedure notice for the inquiry once the appellant was able to provide a timescale for provision of this information. The appellant **provided this information on 1 and 8 June 2018.**

This notice therefore sets out the revised inquiry timescales and takes account of other procedural changes since the issue of the note of the pre-inquiry meeting. The notice also provides further detail on the basis upon which the inquiry's evening session will take place and confirms the inquiry venue. It replaces the note of the pre-inquiry meeting as the procedure notice for the inquiry.

2. Topics upon which further procedure is required

The reporter has determined that the topics in the left hand column below require further procedure. The type of procedure is set out in the middle column. The interested parties the reporter understands wish to take part are set out in the right-hand column.

Topic	Type of procedure	Participants
Landscape and visual effects of the proposed development	Inquiry session	Applicant; Highland Council Roster Against the Windfarm (RAW); Mrs Bowd/Mr & Mrs Cowin

Topic	Type of procedure	Participants
The policy basis upon which the application should be determined	<p>Hearing session (if required). It may be that this topic can be dealt with by agreement between the parties. It is also possible that when parties submit hearing statements there will only be limited disagreement. In either case, it may be possible to forego a hearing on policy.</p> <p>The reporter invites parties to focus particularly on any changes in relevant policy since their most recent written submissions on that subject made in 2017.</p>	Applicant; Highland Council; Roster Against the Windfarm (RAW)
Effects on osprey	Hearing session	Applicant; RAW
Effects on wildcat	Hearing session	Applicant; RAW
peatland restoration proposals and any related forestry replacement (particularly, whether the applicant's proposals conform with national policy)	Hearing session	Applicant; Forestry Commission Scotland; Peter Batten
Residential visual amenity	Hearing session	Applicant; RAW; Mrs Bowd/Mr & Mrs Cowin
Environmental effects of enabling works to the C1053	Hearing session	Applicant; RAW; Mrs Bowd/Mr & Mrs Cowin
Conditions to be imposed and form of planning obligation (if required) should consent and deemed planning permission be granted	Hearing session	Applicant; Highland Council RAW; Forestry Commission Scotland

If any person wishes to take part in any further procedure and is not shown in the right-hand column, the reporter would find it helpful if they would write to his office to say so. Parties wishing to take part are reminded that they must give notice of the case they wish to make on any particular topic in accordance with section 5 of this procedure notice.

Parties are reminded that

- an inquiry session is a formal process in which parties lead witnesses, who may be cross-examined by other parties' advocates; and
- a hearing session is a structured, round-table discussion led by the reporter.

The reporter will take account of the written submissions that are before him, including all written objections, before reaching his recommendations to Ministers. The reporter's views as to the need (or not) for further procedure on any particular topic should not be interpreted as a judgement on the relative importance of one topic over another.

3. Dates and location of the inquiry

The inquiry will commence on Monday 8 October 2018. The reporter would aim to complete it within five working days (by Friday 12 October). However, parties should also keep free **30 and 31** October in case those dates are required to complete the inquiry.

The inquiry will be held at Mackay's Hotel, Wick.

4. Inquiry procedure

Parties are reminded that the application and procedure relating to its handling is subject not only to section 36 of the Electricity Act 1989, but also to section 62 and schedule 9 of that Act, to the Electricity Act (Applications for Consent) Regulations 1990 and to the Electricity Works (Environmental Impact Assessment) Regulations 2017.

Reporters also use the [Code of Practice](#) for Handling Inquiries under section 62 and Schedule 9 to the Electricity Act.

5. Prior disclosure of cases

The inquiry process is based on the principle of prior disclosure – every party is required to disclose their case to the other parties, well in advance of the inquiry, in accordance with a strict timetable. There is no scope for 'ambushing', whereby someone introduces a new point at the inquiry which other participants have not had the chance to consider.

Procedure for inquiry sessions:

Parties taking part in the inquiry session on the landscape and visual effects of the proposed development must lodge an inquiry statement **by 4 July 2018**, setting out

- the particulars of the case the party proposes to make on the matters specified for the inquiry sessions,
- the documents to be relied upon,
- a list of witnesses for the inquiry sessions, including the matters to be covered by each witness and their relevant qualifications, and
- who is to be the party's advocate (if parties are not representing themselves).

Any documents to be referred to at the inquiry session should be submitted at least 28 days before the start of the inquiry (by **10 September 2018**). Documents may be submitted electronically. The reporter would request that any scaled plans or visualisations are also provided in hard copy. Upon submission, documents should be copied to other parties participating in the inquiry session. The reporter requests that a printed copy of inquiry documents is provided for inspection by the public at the deposit location ([the Highland Council's Wick planning office, details in section 7 below](#)).

Any witness giving evidence at the inquiry session must submit a precognition (written statement of evidence) at least 14 days before the start of the inquiry (by **24 September 2018**). All precognitions should be a maximum of 2000 words. Witnesses should not attach as appendices to their precognitions documents which other parties have not seen. All documents should be lodged in the normal manner.

Procedure for hearing sessions

Anyone taking part in a hearing session should lodge a hearing statement – a written statement which fully sets out the case on the topics under discussion, together with a list of who is to speak at the hearing session and on which matter, and their relevant qualifications. This should be submitted 28 days before the start of the inquiry (by **10 September 2018**). Any documents the party intends to rely upon in the hearing session should be submitted by the same date.

As regards conditions, the [council's report](#) includes a list of conditions starting at page 31. The reporter intends, as a matter of convenience, to use this list as a basis for discussion of conditions. He requests parties, if making a submission that different conditions should apply, to provide the proposed amendment to the council's list of conditions together with the reasoning for such an amendment.

Agreed statements

In preparing evidence for the inquiry and hearing sessions, parties should consider the scope for agreed statements, so that the sessions can focus on the matters in dispute which are relevant to the proposals before Scottish Ministers.

Any agreed statements should be lodged as documents at least 28 days before the inquiry (by **10 September 2018**).

5. Open session

At the request of RAW, the reporter decided to hold a session in which individuals can speak to representations they have made about the proposed wind farm. The

session is likely to be held at the inquiry venue on an evening when the inquiry is not sitting in the afternoon. The date will be fixed nearer the time.

The session will be held subject to the following rules:

- Individuals should not raise any new issues not already raised in their existing representations.
- The session is not an opportunity to lead evidence of a technical nature (for example in relation to noise, traffic, birds or other wildlife). If parties wish to submit such evidence it should be done according to the general inquiry timetable for making written submissions or submitting documents set out in paragraph 4 above.
- Statements should be brief – as a guideline, not more than five minutes
- The reporter will not allow cross-examination of those making statements. However, he may have some questions for them.
- It would be helpful to the reporter if those making a statement could provide a copy of it to him.

In order to ensure that the session is managed efficiently and that everyone has an opportunity to take part, it would be helpful to the reporter if those wishing to speak could give notice that they wish to do so 7 days in advance of the evening session.

The note of the pre-inquiry meeting indicated that the reporter considered issues relating to the recreational use of Rumster Forest could be dealt with in the open session. If any person considers that the framework provided by the rules set out above for the evening session would not be adequate for any comments they wish to make in respect of recreational use of Rumster Forest, they should let the reporter's office know as soon as possible.

6. Site inspections

The reporter proposes to carry out his own unaccompanied site inspections before the inquiry.

He would then make an accompanied site inspection after the inquiry. He would be grateful if parties could work together to provide an itinerary for the accompanied site visit, including locations that they consider it is important the reporter should visit. This itinerary can be discussed at the start of the inquiry.

7. Venue for deposit of inquiry documents

The environmental statement and further environmental information is presently available for inspection at the council's Wick planning office.

The venue for deposit of a hard copy of inquiry documents is to be the Highland Council's Wick planning office in Caithness House, Market Place, Wick, KW1 4AB. Information on opening hours can be obtained from the council by calling 01349 886608.

A hard copy of each document submitted to the inquiry should be sent to the planning office, clearly marked as relating to the Golticlay windfarm inquiry. The reporter would be grateful if the council would arrange for delivery of the deposited documents to the inquiry venue at the start of the inquiry.

8. Forestry plan

The reporter draws to parties' attention that Forestry Commission Scotland has submitted a copy of its East Caithness Land Management Plan, which covers Golticlay and Rumster forests. The plan includes information on a number of matters that appear to the reporter to be relevant to the inquiry. The reporter does not invite parties to comment at this stage, but considers that this evidence can be referred to in relevant parts of the inquiry procedure.

9. Possible planning obligation

The reporter notes submissions he has received in respect of the existing planning permission for the three-turbine Rumster windfarm. It is the applicant's position that that permission would not be implemented if the present application is granted. It has provided evidence of a private agreement it has entered into, which is to that effect.

The reporter considers nonetheless that a question arises of whether (without prejudging the outcome of the present application) any grant of consent on the basis of the present application should be subject to the owner of the land in respect of which the existing Rumster permission was granted entering into a planning obligation that would allow revocation of the existing permission should any consent for the proposed development be implemented.

The reporter has therefore added the question of whether a planning obligation is required to the topic for the conditions hearing session of the inquiry.

10. DPEA website and contacts

All documents will be made available electronically on the website of the Planning and Environmental Appeals Division of the Scottish Government (DPEA), www.dpea.scotland.gov.uk. The case reference is [WIN-270-10](#). Case documents can be found on the DPEA website under that reference. The reference should be quoted in correspondence with the DPEA on the application.

The DPEA case officer is Mandy McComiskie. Her telephone number is 0131 244 6982 and email is mandy.mccomiskie@gov.scot. All inquiries to the DPEA regarding the case should be directed to her.

11. Webcasting

The DPEA has started webcasting some of its inquiries. The inquiry in this case may be webcast. The reporter has no information yet on whether it will be.

Generally the public seating areas would not be directly filmed. However by entering the meeting venue and using the public seating area, individuals consent to being filmed and to the use and storage of those images and sound recordings and any information pertaining to them for webcasting and training purposes and for the purpose of keeping historical records and making those records available to the public.

12. Comments on this note

The reporter would be grateful if any comments on the record of the meeting or the procedure for the inquiry set out in this note could be provided as soon as possible, and within 14 days at the latest.

13. Summary of inquiry dates and deadlines

Date	Event / deadline
1 and 8 June 2018	The applicant provided additional environmental information on landscape and visual effects of the proposed development, on wildcat, and on enabling works on the C1053 road. Other parties may respond to the additional environmental information as part of their submissions to the inquiry on the topics set out above.
4 July 2018	Deadline for submission of statements of case for the landscape and visual inquiry session
10 September 2018	Deadline for submission of inquiry documents
10 September 2018	Deadline for submission of hearing statements
24 September 2018	Deadline for submission of precognitions for landscape and visual inquiry session
8 October 2018	Inquiry commences. It is programmed to run until Friday 12 October, although the reporter also requests parties to keep free 30 and 31 October in case those dates are required to complete the inquiry.
7 days before open session	Individuals should give notice to the reporter's office that they wish to speak at the open session