

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (SCOTLAND)
RULES 1997

**OUTLINE WRITTEN SUBMISSION FOR STROUPSTER WINDFARM PUBLIC
LOCAL INQUIRY**

on behalf of

SCOTTISH NATURAL HERITAGE

(DPEA REFERENCE P\PPA\270\431)

10 July 2009

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1 INTRODUCTION

1.1 This outline written submission is submitted by Scottish Natural Heritage (“SNH”) in relation to the Stroupster windfarm Public Local Inquiry to be held in October 2009 into the applications (“the Applications”) to The Highland Council (“THC”) made by Npower Renewables Limited (‘the Appellant’) for consent under the Town and Country Planning (Scotland) Act 1997 for a 12 turbine windfarm with associated infrastructure at Stroupster, near Auckengill, Caithness (“the Proposal”).

1.2 SNH will consider herein the impacts of the Proposal upon the following natural heritage interests:

- Caithness and Sutherland Peatlands SPA (“the SPA”)
- Caithness and Sutherland Peatlands SAC (“the SAC”)
- European Protected Species – otter
- Cumulative landscape and visual impact
- UK Biodiversity Action Plan (“UKBAP”) species – water vole.

SNH’s position in respect of other natural heritage interests remains as set out in our response letters (“the consultative replies”), copies of which will be provided with our full written submission.

1.3 This submission is written in accordance with the email from the Directorate for Planning and Environmental Appeals (DPEA) dated 3 July 2009 and provides SNH’s outline position based on previous consultative replies to THC for the first and second applications for the Proposal. It is possible that this position may change following our assessment of the Further Environmental Information (“FEI”) which was received by SNH on 10 July 2009. SNH responded to the consultation for the first application to THC on 15 November 2005. We submitted our response to the second application on 23 July 2007.

1.4 SNH’s position to the first and second applications is different because the stage, number and location of additional proposals in the area of study had changed by the time of the second application. In addition, new information on potential impacts to ornithological interests had been generated by other similar proposals.

2 THE ROLE AND RESPONSIBILITIES OF SCOTTISH NATURAL HERITAGE

2.1 SNH is a non-departmental public body, established in April 1992 by the Natural Heritage (Scotland) Act 1991, (“the 1991 Act”). The general aims and purposes of SNH are to:

- secure the conservation and enhancement of the natural heritage, including its flora and fauna, geological and physiographical features, and its natural beauty and amenity;

- foster the understanding, appreciation and enjoyment of the natural heritage in Scotland.

2.2 The 1991 Act also stipulates that SNH shall “*have regard to the desirability of securing that anything done ... in relation to the natural heritage of Scotland, is undertaken in a manner which is sustainable*” (section 1(1)) and shall, in exercising its functions, take into account as appropriate *inter alia* the need for social and economic development and actual or possible ecological and other environmental changes to the natural heritage.

3 NATURAL HERITAGE INTERESTS

CAITHNESS AND SUTHERLAND PEATLANDS SPA (“the SPA”)

3.1 15 November 2005

SNH objected to the Proposal because of impacts on the hen harrier interest of the SPA. SNH’s advice is that this proposal is likely to have a significant effect on the hen harrier qualifying interest of the site. Accordingly, in SNH’s view an appropriate assessment of the implications of the submitted proposal for the site’s conservation objectives for its qualifying interests should be undertaken by THC as competent authority.

However, if the proposal is amended so that the works are undertaken strictly in accordance with the following condition this significant effect can be avoided:

- felling and waste of timber by whole tree mulching or removal.

This condition must be confirmed by THC as competent authority or through the submission of a revised application. SNH will provide further advice as necessary if it is decided that an appropriate assessment is required.

3.2 23 July 2007

SNH objected to the Proposal due to a lack of information regarding the impacts of the Proposal upon the hen harrier qualifying interest. For SNH’s objection to be removed, details of a habitat management plan and monitoring procedure should be provided. That habitat management plan and monitoring procedure should ensure that the collision risk to hen harrier does not increase as a result of the changes in the vegetation structure and the prey that is available in the medium to long term. This information should provide a high level of confidence that the area will not prove to be more favourable for breeding attempts or provide increased prey availability for the hen harrier during the operational period of the development.

3.3 10 July 2009

SNH's advice remains as set out in our consultative reply of 23 July 2007, pending a review of the FEI.

CAITHNESS AND SUTHERLAND PEATLANDS SAC ("the SAC")

3.4 15 November 2005

SNH objected because of insufficient information to enable an adequate appraisal of the impacts upon the SAC habitat and otter interests

3.5 23 July 2007

SNH's position was amended to one of conditioned objection. Whilst the Proposal was likely to have a significant effect on the blanket bog and otter qualifying interests of this site, SNH concluded that we would be able to withdraw our objection if, and only if, the Proposal was made subject to planning conditions to ensure that the integrity of the SAC would not be adversely affected.

SNH requires in terms of the blanket bog qualifying interest conditions to ensure that:

- the widening of the access track is undertaken in accordance with the proposed mitigation in the approach outlined in the Stroupster Wind Farm Environmental Statement, Volume 4, Appendix 3.1 and 6.4, May 2007. This is to ensure that further drying impacts to the blanket bog are avoided.
- maintenance and repair work to cabling and drainage pipes is undertaken from the track and must not extend beyond the outer edges of the existing open ditch. This is to ensure that further drying impacts to the blanket bog are avoided.

To ensure that the otter qualifying interest is not adversely affected by the Proposal:

- a pre-construction survey must be undertaken of the development site for otter holt (including resting places) including a 500m buffer zone around all proposed construction areas. Should any indication of otters be discovered then development work should cease within 100m thereof and SNH should be consulted on an appropriate exclusion zone to be applied from the holt. This is to ensure that significant disturbance to otters will be avoided.
- the Appellant should be required to produce a plan to mitigate against the impediment of otter movement across the site. This plan should include the installation of otter culverts where access tracks are likely

to cut across important watercourses which support this species. This plan should be agreed with SNH and other relevant parties prior to the commencement of any development. This is to avoid long-term obstruction to the habitats which support otters.

- there should be agreed with SEPA a pollution control plan and a waste management plan with mitigation proposals prior to development commencing to avoid the pollution of watercourses which could cause the loss of habitat or poisoning of otters.

3.6 10 July 2009

SNH's advice remains as set out in our consultative reply of 23 July 2007, pending a review of the FEI.

EUROPEAN PROTECTED SPECIES

3.7 15 November 2005

SNH objected to the application because the Appellant had not provided sufficient information to enable SNH to assess if the application would be detrimental to the maintenance of populations of otter at a favourable conservation status.

3.8 23 July 2007

We amended our 2005 position to one of conditioned objection. We advised that we would be able to withdraw our objection if, the Proposal was made subject to planning conditions. Those conditions are as expressed above at paragraph 3.6.

3.9 10 July 2009

SNH's advice remains as set out in our consultative reply of 23 July 2007, pending a review of the FEI.

LANDSCAPE AND VISUAL IMPACT

3.10 15 November 2005

SNH expressed concerns that the Proposal could set a precedent for other wind farm development in North East Caithness. We noted that this was an area which was then free of wind farm development and that the Proposal would be seen as an outlier from the main areas of development within the wider Caithness landscape. We therefore advised that the application should be determined in line with THC's Renewables Strategy.

3.11 23 July 2007

SNH amended its position to one of objection because of the unacceptable cumulative landscape and visual impacts of the Proposal with the 4 consented developments and 7 proposed developments that were assessed in the Environmental Statement.

3.12 10 July 2009

Pending assessment of the FEI on cumulative landscape and visual impacts which is to be provided by the end of July, SNH's position remains that of objection due to unacceptable cumulative landscape and visual impacts. This objection cannot be overcome by the application of planning conditions.

UKBAP SPECIES – WATER VOLE

3.13 15 November 2005

SNH noted that water voles are protected under Section 9 (4) of the Wildlife and Countryside Act 1981. The water vole survey that had been undertaken by the Appellant indicated that there were positive signs of this species at a number of locations. SNH therefore recommended that a precautionary approach be adopted and that measures should be secured to minimise the risk of any significant impact upon this species, as outlined in the ES. Those measures were to include a restriction on construction work and vehicular activity within 10m of either side of watercourses other than where access tracks must cross those watercourses.

3.14 23 July 2007

SNH amended its position with recommendations for avoiding impacts to water voles. Given that the water vole survey indicated there were signs of this species in several locations within the survey area, SNH recommends a precautionary approach should be adopted and measures secured to minimise the risk of any significant impact on the species. These measures should include those identified in the ES in sections 6.115 – 6.117 and:

- No construction work or vehicular activity within 10m of watercourses, other than where access tracks must cross watercourses.
- Survey immediately prior to the commencement of works within a 200m buffer of any stream or river crossings that could hold water vole colonies.
- Adequate control of water run-off from the site is required, in relation to preventing siltation of watercourses. This should be part of a Pollution Control Plan and Waste Management Plan, including mitigation proposals, to be agreed with SEPA prior to works commencing on site.

If water voles occupy any site identified in the pre-construction survey then the infrastructure should be relocated to avoid water vole habitat by at least 10m.

3.15 10 July 2009

SNH's advice remains as set out in our consultative reply of 23 July 2007, pending a review of the FEI.

4 WRITTEN SUBMISSION

Further environmental information, excluding that relating to cumulative landscape and visual impacts, was received by SNH on 10 July 2009. As requested by the DPEA by email on 3 July 2009, SNH will provide by 7 August a written submission which will provide our up to date advice, including in respect of any necessary conditions.

In terms of cumulative landscape and visual impacts, it is noted that the Appellant is to provide further environmental information by 31 July. SNH will assess that information and provide a brief written submission containing our up to date advice within 28 days of receipt thereof.

SNH does not propose to provide oral evidence to the Inquiry. SNH would, however, be pleased to receive in early course the proposed draft conditions so that we may provide our written comments thereon.