

2018/C007 – Note accompanying draft Inquiry programme/ agenda

The Inquiry will be conducted in accordance with the Commission's Procedures for Public Inquiries & Hearings into Regionally Significant & Called-in Planning Applications. These are available on our website under the heading "Publications".

The programme has been drafted to allow me to raise the issues on which I need further clarification. It does not reflect the much wider range of concerns before me. I have read each of the 2,159 letters received, to date, since the planning application subject of this Inquiry was lodged with the Department for Infrastructure (DfI) together with the statements of case and rebuttals. Therefore, I do not need to discuss the entirety of the diverse range of concerns that they contain during the Inquiry. Some of the issues I can deal with on the basis of the very extensive written evidence before me. My objective is to focus on the particular matters on which I need clarification. Nevertheless, I will consider the full span of issues that all participants have raised when writing my report for the Department for Infrastructure's (DfI) consideration.

The agenda items are not ranked either in order of perceived importance or the weight that I shall give them in making my recommendation on the proposal.

Discussion of conditions that might be attached to planning permission, were DfI to approve the proposal, will be without prejudice to my recommendation. No one should infer that I have pre-determined my position; that is not the case. Consideration of conditions will generally be included within the topic being discussed.

Some draft agenda items identify particular issues. These are not necessarily the only ones that I want to raise. Their specific mention is to alert participants that, amongst other things, I will raise those matters so they can prepare accordingly.

Use of a party's rebuttal submission as the basis for discussion does not imply that I find their evidence more persuasive than other participants.

When discussion on an issue is finished, it will not be re-opened to accommodate participants who were unable to attend for whatever reason(s), when it was being discussed.

Commissioner Julie de-Courcey
22.08.19

2018/C007 – DRAFT INQUIRY PROGRAMME/AGENDA

1. Introduction

- Commissioner's role, procedure and the programme/agenda

2. Drawings/plans

- Does the attached table comprise the complete list of drawings on which I am being asked to make my recommendation to DfI?; and
- Scale apart, are Figure 1.1 in the ES Addendum and the Site Layout Rev O: dated 20/04/2017 the same plans?

3. Visual amenity & landscape character (including impact on AONB)

- Public access to applicant's viewpoint nos. 12 and 19 - asserted Public Rights of Way, permissive paths etc?;
- Additional viewpoints that third parties have identified including: Carnanelly; Mullaghcarn ; Beaghmore Road; Greencastle GAA Club: Aughascribba (Aughascrebagh); and Sixtowns Road;
- Any permissive public access within the appeal site?
- Micro-siting and associated condition – reference to Scottish Natural Heritage guidance "*Siting and designing Wind Farms in the Landscape*", page 13;
- Surface treatment of temporary parking area adjoining No. 259 Sixtowns Road? and
- Provisions for removal and restoration of vehicle parking area & temporary security office adjoining No. 259 Sixtowns Road.

4. Cultural heritage & archaeology

- Status of "*Guidance on Setting and the Historic Environment*" (2018);
- Weight to be given to the "ICOMOS methodology;" and
- Consideration of Appendix 2 of the Department's rebuttal evidence;
- Doraville Mass Rock, Mullaghturk; and
- "The Stone Man", Spaltindoagh.

5. Tourism & outdoor recreation

- Applicant's RR2 & RR8 at Appendix 5 & 11 respectively of their rebuttal evidence to form basis of discussion

6. Transmission issues

- Clarification as to whether there will be any additional overhead lines within the application site or will these be placed underground?
- “Project splitting” - *O’Grianna & Ors, v An Bord Pleanala [2014]*;
- Grid connection; and
- Capacity of transmission network to accommodate additional electricity generation of the proposed nature & magnitude

7. Emergent Local Development Plans (LDP)

- Has the soundness of the draft Planning Strategy for F&ODC been challenged on the basis of draft policies L01, L02, RE01 and/or the Wind Energy Strategy?
- Has the soundness of the draft Planning Strategy for MUDC been challenged on the basis of draft policies HE 1, HE 4, SCA 1, NH 6 and/or RNW 1?
- What stage has MUDC draft PS reached in overall LDP process?

8. Economic, social & environmental benefits

- Consideration of the findings of “*The Performance of Wind Farms in the United Kingdom & Denmark*” by Gordon Hughes, Renewable Energy Foundation (2012);
- Consideration of applicant’s RR10 – Carbon Calculator at Appendix 13 of their rebuttal evidence; and
- Environmental impact of neodymium mining.

9. Noise & residential amenity

- EHDs’ suggested additional condition at Appendix 3 of DfI’s rebuttal evidence. Does it meet the tests for the imposition of conditions set out in para 5.65 of the SPPS specifically precision and enforceability?;
- Impact of temporary parking area, during operational phase, on residential amenity of No. 259 Sixtowns Road;
- Methodology for Noise Impact Assessment (NIA) ;
- Update on any recent meeting(s) between the applicant and EHDs;
- Existing noise environment;
- Identification of remaining differences between EHDs and applicant on the NIA;
- Consideration of associated conditions (applicant’s RR 9 at Appendix 12 of

- their rebuttal evidence);
- Impact on human health;
- Impact on livestock, including horses, and domestic pets;
- ES addendum, Vol. 3, Part A, App. 7.2.1 Residential Visual Amenity Assessment: significant impact identified on - 1 approved and 3 existing dwellings (non-FI). Arrangements to be made for conjoined, accompanied visits to all 4;
- Stray voltage; and
- Applicant's response to para 6 of letter 1778 from Save Our Sperrins;

10. Natural heritage & ecology

- Approach to identification of likely significant impacts on environmental assets in light of: *People over Wind & Sweetman v Coillte Teoranta (C-323/17)* and *Gladman v SSHCLG & Medway Council [2019] EWHC 2001 [Admin]*;
- Use Applicant's RR3 – Ecology at Appendix 6 of their rebuttal evidence as the basis for discussion (save for para 6); and
- Shadow Habitat Regulations Assessment.

11. Peat slide & bog burst

- Applicant's RR 11 – Peat Slide at Appendix 14 of their rebuttal evidence to form basis for discussion;
- Para 6 of applicant's RR 3 – Ecology at Appendix 6 of the applicant's rebuttal statement;
- Paras 23 & 24 of applicant's RR 12 – Hydrology at Appendix 15 of the applicant's rebuttal statement; and
- Para 16 of applicant's RR 13 – Fisheries at Appendix 16 of their rebuttal.

12. Hydrology

- Use applicant's RR 12 – Hydrology at Appendix 15 of their rebuttal evidence as basis or discussion (save for paras. 23 & 24); and
- Private water supplies including No. 30 Liggins Road.

13. Fisheries

- Use applicant's RR 13 - Fisheries at Appendix 16 of their rebuttal evidence as basis for discussion (save for para 16)

14. Any other business

15. Remaining conditions

- The applicant's RR 9 at Appendix 12 of their rebuttal evidence provides the basis for discussion;
- Provisions for removal and restoration of vehicle parking area adjoining Sixtowns Road; and
- Any other conditions.

16. Close of Inquiry

- What happens next: and
- Date for delivery of my report and recommendation to Dfl.

Commissioner Julie de-Courcey
22.08.19