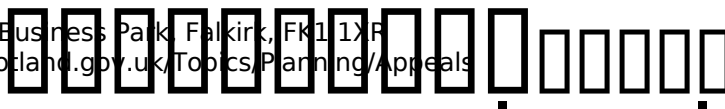
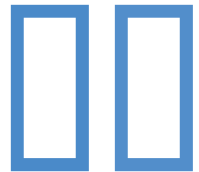
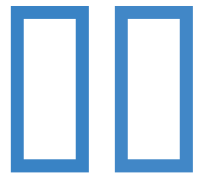
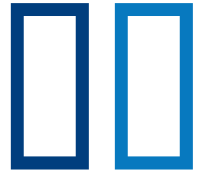
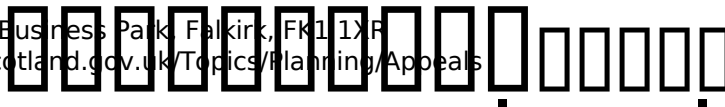
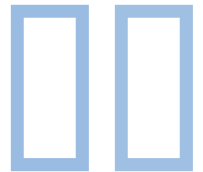
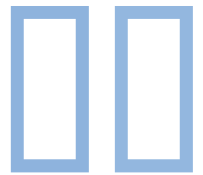
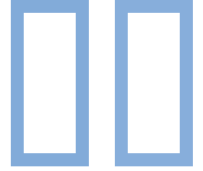
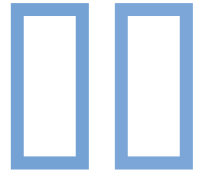


Directorate for Planning and Environmental Appeals

Appeal Decision Notice

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Decision by David N Gordon, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/250/675
- Site address:«Siteaddress» Rossie, Auchtermuchty, Fife KY14 7EH
- Appeal by«AppellantName» Energiekontor UK Ltd against the failure of Fife Council to determine the application«DevDesc»
- Application for planning permission 06/02288/EEIA,«PACaseRef» «PACaseRef»dated30/04/2007 29 June 2006«DatePADec»
- The development proposed: erection of 5 wind turbine generators, substation building, construction of vehicular access and ancillary works
- Dates of public local inquiry: 15-18 and 22 January 2008«DateSI»

Date of appeal decision: 19 February 2008

20 March 2007

Decision

I dismiss the appeal and refuse planning permission.

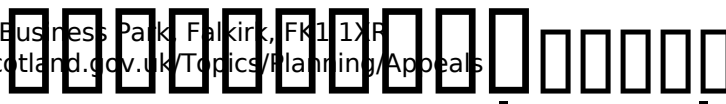
Reasoning

1. The determining issues in this appeal are (1) whether the development would preserve the setting of listed buildings; (2) whether it would accord with the development plan; and (3) whether there are overriding material considerations.

2. The environmental statement identifies more than 380 **listed buildings** within 15 km of the site that could, theoretically, be intervisible with the proposed development. Of these, 90 were identified as likely to receive a significant (high or moderate) indirect visual effect from the proposed development. Despite this, Historic Scotland did not consider that the impacts on the area's cultural heritage (including its listed buildings) would be significant enough to justify its objecting to the proposal. I conclude that the development would preserve, to an acceptable degree, the setting of listed buildings.

3. Turning to the second determining issue, **the development plan** comprises the Fife Structure Plan (approved in 2002) and the Cupar and Howe of Fife Local Plan (adopted in 2003). The most relevant provisions are structure plan policies R7 (wind turbines) and N1 (quality of development in the countryside), and local plan policy COU19 (renewable energy).

4. Structure plan policy R7 states (in summary) that preference may be given to commercial wind farms within broad search areas, and that within such areas proposals are most likely to be supported where: they respect the key features and character of the landscape and minimise their impact on the skyline; and they do not have a significant detrimental effect on the amenity of nearby residents. Local plan policy COU19 states that



renewable energy developments will be supported provided that there is no significant adverse impact on local communities and/or the built and natural environment. The structure plan key diagram shows the appeal site lying within a wind farm search area. No such areas are identified in the (earlier) local plan.

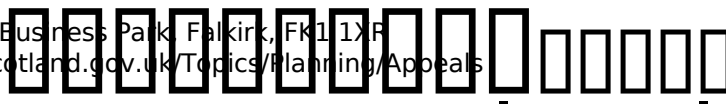
5. Structure plan policy N1 states, amongst other things, that development in Areas of Great Landscape Value (AGLVs) will be supported only where it can be shown that it will maintain or enhance the character of the landscape. It also states that the Fife Landscape Character Assessment will be a material consideration in the assessment of development proposals. The local plan proposals map shows the site, and the countryside around Auchtermuchty, lying within an AGLV.

6. The main issues relating to these policies are landscape and visual impacts, and other residential amenity impacts, notably noise. I shall also consider the impact on Auchtermuchty Common, and some other impacts on the built and natural environment.

7. With respect to **landscape and visual impacts**, the appeal site is situated in the foothills of the Ochil Hills, just north of the Howe of Fife. It lies on a ridgeline which rises from the south-east to the north-west. The town of Auchtermuchty lies on lower ground, approximately 1 km to the south-west, and Auchtermuchty Common lies to the west. The main landscape and visual impacts would arise from the proposed turbines. They would be erected in a shallow arc, over a distance of about 700m. Their maximum height would be 60m to hub, and 93.5m to blade tip in the vertical position.

8. The Fife Landscape Character Assessment, published by Scottish Natural Heritage (SNH) in 1999, identifies the site as being within the Lowland Hills and Valleys landscape type. It states (at page 118) that the Lowland Hills and Valleys have the capacity to accommodate (other forms of) modest-scale development and structures, and it encourages “the careful siting and design of any new high or bulky structures so that they are not on skylines or otherwise conspicuous”. The proposed turbines would not be ‘modest-scale’, they would be seen as skyline development from many locations, and they would be conspicuous over a wide area. The document was published before the widespread deployment of large wind turbines, and to some extent its guidance can therefore be seen as out of date. However, in so far as it has relevance, it lends little support to the appeal proposal.

9. The document states (at page 156) that the strong relationship between many of Fife’s settlements and their landscape setting is a major contribution not only to the landscape character but also to the amenity value of the built up areas and the countryside around the towns. Public views into and out of settlements are stated to be an important part of every day life. It suggests that Auchtermuchty, amongst other settlements, could benefit from the preparation of a detailed landscape plan. As far as I am aware, no such plan has been prepared. However I recognise the importance of the town’s landscape setting. As discussed below, I consider that the proposed turbines would have a significant effect on the setting of Auchtermuchty.



10. The appellant accepted, and I agree, that the proposed development would create a 'wind farm landscape' within a radius of approximately 750m from the turbines. This would encompass a significant part of the setting of Auchtermuchty, as well as much of Auchtermuchty Common. Beyond that distance, the appellant accepted, and I agree, that significant effects on landscape character might extend to a radius of 4 km.

11. Assessing the impact on the setting of Auchtermuchty involves consideration of both views of the settlement and the turbines from the surrounding area, and views from the settlement to the turbines. The turbines would have a major impact on the setting of the town, particularly as seen on the approaches by road from the west and east (on the A91) and from the south (on the B936).

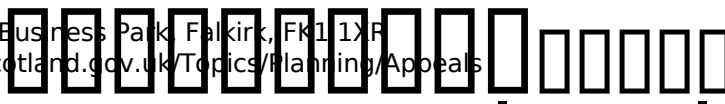
12. Views from the settlement are restricted by its fairly enclosed urban form. Views are also restricted, to some extent, by the low ridge which lies between the appeal site and the town. However the turbines would be visible from many parts of the town, some of which are of high townscape value. For example, the view from High Street, in the heart of the town's conservation area, looking down Croft towards the properties in Burnside and the countryside beyond, would change dramatically if the turbines were built. The very significant visual impact of the turbines is a function of both their proximity to the town, and their height above it.

13. There is no statutory requirement to pay attention to whether the proposed development would preserve or enhance the character or appearance of the conservation area. However National Planning Policy Guideline (NPPG) 18 – 'Planning and the Historic Environment' states (at paragraph 46) that consideration should be given to the impact of developments lying outwith a conservation area, but which would impact upon its appearance, character or setting. In my opinion the proposed turbines would have a major impact on the setting of the conservation area, and of the town generally. Auchtermuchty is an attractive, historic town (a Royal Burgh since 1517), and I attach considerable weight to this issue.

14. No nationally designated landscapes would be affected by the proposal. While the overall integrity of the (locally designated) AGLV would not be significantly compromised, there would be significant effects on part of it. Applying the test in structure plan policy N1, I do not consider that the development would maintain the character of the landscape, and it would certainly not enhance it.

15. It is important to acknowledge that this is not an unblemished environment at present. The large, prominent Sterling warehouse to the south of Auchtermuchty detracts significantly from the local landscape. Of probably more relevance, an overhead 400 kV electricity line runs on a north-west to south-east alignment between the appeal site and Auchtermuchty. However, the proposed turbines would be more 'solid', and about twice as tall as the electricity pylons, and the moving blades would add to their impact.

16. The appellant accepted, and I agree, that there would be significant effects on visual amenity: for residents within parts of Auchtermuchty and Dunshalt, and in other dwellings within about 4 km of the site; for travellers on the A91, the B936 and some minor roads; and for recreational users on Auchtermuchty Common and other footpaths.



17. The appellant's residential receptors' survey established that of the 1296 dwellings within a 3 km radius of the turbines, significant effects might be experienced by up to 481 dwellings. Of these, 201 would experience open, unrestricted views.

18. The majority of the affected properties are in Auchtermuchty – at distances of between 800m and 1.8 km. In Dunshalt, which lies 2-2.5 km to the south of the site, the main road through the village runs from north to south. Houses fronting the road have most of their windows facing east and west, with only oblique views towards the site. However northward views from this road would be towards the turbines, which would be framed by the houses on either side of the road, thereby increasing their impact.

19. The proposed development would be more than 11 km from the nearest operational, consented or proposed wind farm. I do not consider that it would result in any significant cumulative landscape and visual effects.

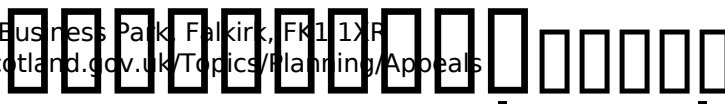
20. I appreciate that the landscape and visual effects of the proposal would not be permanent. However they would last for a long time – probably about 25 years. I also appreciate that people have a range of attitudes towards wind farms. However many of the views to which I have referred are over fairly short distances. For example the houses at the east end of Auchtermuchty would be about 800m from the nearest turbine. At that distance, the turbines would be a dominant feature in the landscape, and in my opinion, their impact would be adverse.

21. **Noise** would be unlikely to cause an unacceptable problem during the construction phase. The position regarding operational noise is less straightforward.

22. The report ETSU-R-97, 'The Assessment and Rating of Noise from Wind Turbines', describes a framework for the measurement of wind farm noise and gives indicative noise levels thought to offer a reasonable degree of protection to neighbours without placing unreasonable restrictions or burdens on operators or local authorities. It is endorsed by Planning Advice Note (PAN) 45 – 'Renewable Energy Technologies'. It provides that operational noise should be limited to X dBL_{A90} or 5 dB above the prevailing background noise level, whichever is the greater. For night-time, the value of X is given as 43, to protect against sleep disturbance with a window open. For day-time, X is given as 35-40, with the actual value in the range dependent upon 3 criteria: the number of dwellings in the neighbourhood of the wind farm; the effect of noise limits on the number of kWh generated; and the duration and level of exposure.

23. The appellant's noise assessment indicates that there would be no exceedance of the night-time noise limit at any residential property. It also indicates that there would be no exceedance of the upper (40 dB) limit at any property, and that the lower (35 dB) limit would be exceeded at 7 dwellings. However compliance would necessitate capping the output of each turbine at 1.4 MW during the day-time.

24. The council and the Auchtermuchty Landscape and Environment Group (ALE) argued that the day-time limit should be set at 35 dB, not 40 dB, particularly because of the



large number of dwellings nearby. However noise at the vast majority of these dwellings, including all those in Auchtermuchty itself, would be below the lower limit. Furthermore, while the houses at Lumquat and Lochiehead would be downwind of the turbines when the wind blew from the south-west, the houses at Broombrae, as well as those in Auchtermuchty, would be downwind of the turbines far less frequently. Applying the lower limit would further restrict the wind farm's output, and might necessitate the removal of 2 turbines – although no detailed evidence was provided on this. In these circumstances, it is probably reasonable to apply the upper (40 dB) limit. As noted, there would be no exceedance of this limit.

25. Unlike noise regimes in some other countries, ETSU-R-97 permits higher noise levels at night than during the day. The night-time limit in ETSU-R-97 is consistent with guidance from the World Health Organisation (WHO). In England the Government considered whether the night-time limit in ETSU-R-97 should be revised following revision of the WHO standards, and decided that it should not. I accept that it is reasonable to apply the ETSU-R-97 night-time limit. As noted, there would be no exceedance of this limit.

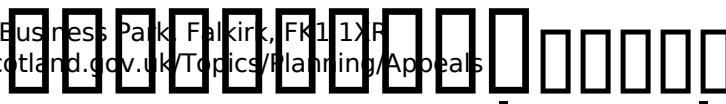
26. There is no evidence that wind shear would be unusually high at the site. Even if it was, this would not result in an exceedance of the ETSU-R-97 limits. Residents' interests would be safeguarded. Any adverse impact would be upon the operator, who would have to comply with noise conditions, and reduce power output.

27. The causes of amplitude modulation (AM) are not fully understood. AM causes problems at only a few wind farms. In this case, the short separation distance between the proposed turbines (only about $2\frac{1}{4}$ rotor diameters) could make AM more likely.

28. My main conclusion on noise is that, subject to some reservations about AM, the ETSU-R-97 standards would be met. To that extent, the proposal would therefore be acceptable from a noise point of view. However, as the appellant acknowledged, under some conditions, during both the day and night, the turbines would result in noticeable increases in noise levels at a large number of properties. This is not relevant in terms of ETSU-R-97 – which is concerned with acceptability, not audibility. However, when people who are opposed to wind farms are able to hear, as well as see, the turbines, I believe that that can increase the impact on residential amenity. Given the close proximity of the turbines to a large number of houses, particularly in Auchtermuchty, I attach some weight to this issue.

29. **Auchtermuchty Common** is a high quality and highly valued area of community-owned open space. Its 2 fields are easily accessible on foot from the town, and are used for informal recreation in peaceful and attractive surroundings. The common is of historic interest, being part of the more extensive common lands that were granted a Royal Charter in 1517; and it is a locally designated wildlife site.

30. Three of the proposed turbines would be only about 180m from the southern field. I consider that most people who use the common for recreation would perceive the visual impact as major and adverse. Additionally, noise levels could reach about 50 dB, which many people would probably find annoying. In certain wind conditions, this would no longer



be a peaceful place. I consider this to be a significant disadvantage of the proposed development.

31. A footpath runs through part of the common, providing a link to Auchtermuchty. Two of the turbines would be about 400m from a section of the footpath. The impact of users of the footpath would be significant.

32. Turning to **other environmental impacts**, the ES states that the site is of low ecological value, and ornithological and other ecological impacts were assessed as being of minor or negligible significance. SNH expressed itself generally satisfied with the findings of the ES as far as species impacts were concerned. In particular, it agreed that impacts on priority bird species and on bats would not be significant. An objector referred to recent research showing that bats can be attracted to the nacelles of wind turbines, but the balance of the evidence does not suggest that this would be likely to present a significant problem here.

33. The evidence presented on shadow flicker indicates that this would not be a significant problem in the area. This was accepted by the planning authority.

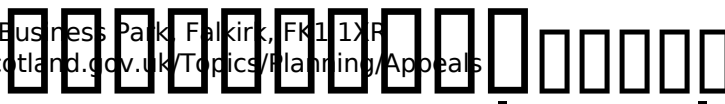
34. The evidence presented on the Broombrae private water supply indicates that surface water originating from the appeal site would be unlikely to cause a problem.

35. **Finally, with respect to the development plan**, the search areas identified in the structure plan cover a large part of Fife, and do not exclude settlements. I therefore attach only limited weight to the fact that the site lies within such an area. Furthermore, as noted above, I consider that the proposal would have significant adverse landscape and visual impacts, significant adverse impacts on Auchtermuchty and its residents, and a major adverse impact on Auchtermuchty Common. I conclude, in particular, that it would be contrary to structure plan policy R7 and local plan policy COU19. It would also be contrary to structure plan policy N1. Overall, it would not accord with the development plan.

36. Turning to the third determining issue, I believe that the **other main material considerations** are energy policy and Scottish Planning Policy (SPP) 6 – ‘Renewable Energy’, the emerging development plan, the council’s draft Supplementary Planning Guidance on ‘Wind Energy’, and the views of consultees and other parties.

37. **Energy policy** is a reserved matter, which is the responsibility of the UK Government. Within this UK context the Scottish Government is committed to increasing the amount of electricity generated from renewable energy sources. Until recently, the target (as set out in SPP 6) was for 18% of the electricity generated in Scotland to come from renewable sources by 2010, rising to 40% by 2020. In November 2007 the Energy Minister announced an increase in the 2020 target to 50%, with an interim target of 31% by 2011.

38. **SPP 6** was published in March 2007. It post-dates the development plan by several years, and I attach considerable weight to its provisions. The SPP is strongly supportive of further renewable energy provision, but it also stresses (at paragraph 17) that impacts on local communities and other interests have to be satisfactorily addressed.



39. The SPP states (at paragraph 54) that consideration of the significance of any adverse impacts of a renewable generation proposal should have regard to the projected benefits of the proposal in terms of its contribution to the Scottish Government's targets for renewable energy. The installed capacity of the proposed turbines is 10 MW, and the appellant has estimated that the capacity factor would be about 31%. The contribution to renewable energy, while worthwhile, would be fairly modest, and this has to be balanced alongside the significant impacts on landscape, visual amenity and local communities.

40. The SPP states (at paragraph 53) that available capacity on the grid to accommodate a project should be a material planning consideration. In this case, there appears to be grid capacity, and correspondence with Scottish Power indicates that a grid connection would be forthcoming. This is a significant factor in support of the development.

41. Annex A of the SPP provides policy guidance on setting out a spatial framework for considering wind farm proposals over 20 MW. It states that planning authorities may consider it helpful to introduce zones around communities as a means of guiding development to broad areas of search where visual impacts are likely to be less of a constraint. It states that the Scottish Ministers would support a 2 km separation distance between turbines and the edges of towns and villages, but that within that distance proposals should continue to be judged on a case-by-case basis. This reinforces my general view that the proposed turbines in this case would be too close to Auchtermuchty.

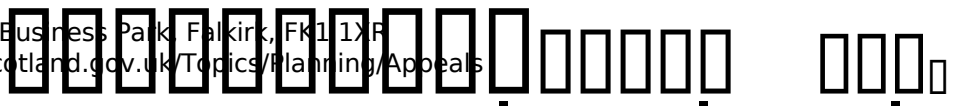
42. **The emerging development plan** comprises the Finalised Fife Structure Plan 2006-2026 ('Fife Matters') and the Finalised Draft St Andrews & East Fife Local Plan 2007. Both documents are well advanced in their preparation and I therefore attach considerable weight to them.

43. Policy R1 (wind turbines) in the draft structure plan is broadly similar to policy R7 in the approved structure plan, but it includes additional criteria relating, in particular, to private water supplies and birds. As discussed above, it appears unlikely that the proposal would present problems with respect to either of these issues.

44. Policy I1 (renewable energy) in the draft local plan includes similar wording to that in policy COU19 in the adopted local plan. Additionally, it states that developments should provide employment opportunities, particularly diversification of the rural economy, and that they should make use of brownfield or contaminated land where possible. The construction of the development would generate employment. Wind farms need a sufficient wind resource, as well as an adequate separation from residential areas, and so there are few opportunities for siting them on brownfield sites.

45. Overall, the proposal is contrary to the emerging development plan because of the significant adverse environmental effects already discussed.

46. The council's **Supplementary Planning Guidance (SPG) on 'Wind Energy'** was published as a consultation draft in January 2007. The document represents the council's fairly up to date views on the subject, but it has not been adjusted in the light of consultation responses, and I attach only limited weight to it. It contains at least 3 new policy elements.



47. Firstly, it quotes the draft structure plan policy on wind farms (policy R1), but with an additional criterion relating to civil and military aviation operations. Neither the Civil Aviation Authority nor the Ministry of Defence objected to the proposal.

48. Secondly, it states that the council considers that the minimum stand-off distance between commercial scale wind turbines and a neighbouring property should be 1.5 km (with the actual distance evaluated for each proposed development etc). By contrast, in this case, there would be turbines within about 600-700m of several isolated properties, and within about 800m of the eastern edge of Auchtermuchty.

49. Thirdly, it identifies areas of search for several categories of wind turbine development, based on a landscape capacity study conducted by ASH design + assessment. The appeal site is shown lying within an area with potential to accommodate development of single turbines of any height or groups of 5 or more turbines of up to 50m height to blade tip.

50. The appeal proposal is contrary to the thrust of the draft SPG.

51. With respect to **the views of consultees and other parties**, I have already referred to SNH's comments on wildlife. SNH did not object to the proposal, but it expressed serious concerns about its landscape and visual impacts. It made particular comment on the visual impacts from Auchtermuchty and Dunshalt. With respect to Auchtermuchty, it stated that the turbines, due to their more elevated position combined with their height, would form a dominant feature on the eastern skyline from a range of areas. It added that, at such proximity, the effect of blade movement would be very noticeable and a possibly distracting feature of daily life within the town.

52. As already noted, Historic Scotland did not object to the proposed development. However it drew attention to the rich cultural landscape of the Howe of Fife, and stated that it was possible that the proposal could have a negative impact upon the character of this cultural landscape.

53. More than 400 objections were received, and third parties played an important role at the inquiry. Most of the issues raised, which I have already addressed, were relevant planning matters, and I attach significant weight to those expressions of local concern.

54. **Summing up**, I consider that while the development would preserve, to an acceptable degree, the setting of listed buildings, it would be contrary to the development plan. Some of the other material considerations support the development, while others are either neutral or point in the opposite direction. I have taken account of all the environmental information that has been provided, and believe that some important adverse impacts, relating particularly to landscape and visual impacts, as well as noise, have not been satisfactorily addressed. Furthermore, they could not be adequately mitigated by the imposition of conditions or by parties entering into a section 75 agreement. Overall I find the balance of the other material considerations to be not supportive of the proposal, which I therefore find unacceptable.



55. I have taken account of all the other matters raised by parties, but these do not alter my conclusion.

This is the version issued to parties on 19 February 2008.

David N Gordon
Reporter

