

## **Item: 10**

**Development and Infrastructure Committee: 5 September 2023.**

### **Development Management Guidance – Wind Energy Noise Assessment Definitions.**

**Report by Corporate Director for Neighbourhood Services and Infrastructure.**

## **1. Purpose of Report**

To consider draft Development Management Guidance (DMG) in respect of Wind Energy Noise Assessment Definitions.

## **2. Recommendations**

The Committee is invited to note:

### **2.1.**

That Development Management Guidance provides advice on technical issues and the interpretation of given policies where a need arises, thus ensuring a consistency of approach in the determination of planning applications.

### **2.2.**

That Development Management Guidance in respect of Wind Energy Noise Assessment Definitions has been prepared to provide additional clarification when assessing noise issues associated with new development and existing wind energy developments.

**It is recommended:**

### **2.3.**

That the Development Management Guidance – Wind Energy Noise Assessment Definitions, attached as Appendix 1 to this report, be approved.

## **3. Background**

### **3.1.**

Development Management Guidance (DMG) is produced to provide advice on technical issues and the interpretation of given policy matters. It is the intention of DMG to ensure consistency of approach and to highlight the original intention / spirit of a policy where there is ambiguity. As such DMG is a material consideration in the determination of planning applications. Whilst DMG is not subject to public consultation, it is approved by Council prior to publication.

### **3.2.**

It has become clear that there were concerns over two phrases used from the Assessment of Rating of Noise for Wind Farms publication that is referred to in Supplementary Guidance: Energy 2017. This is occurring as development proposals are looking to locate in close proximity to existing wind energy developments where there maybe noise or amenity issues associated with the existing wind energy development. The two phrases are “noise sensitive receptors” and “financial involvement”.

### **3.3.**

Environmental Health, Legal Services and Development Management were consulted during the drafting of the DMG; and this matter was discussed with Elected Members through the Planning and Community Protection Consultative Group on 24 November 2022.

## **4. DMG – Wind Energy Noise Assessment Definitions**

### **4.1.**

For Noise Sensitive Receptors the definition looks at use classes where people will sleep and have the expectation of not having an excessive noise disturbance that will affect their enjoyment of this place / location.

### **4.2.**

For Financial Involvement, the definition is about having the ability to manage the operation of the wind energy development so as to directly address concerns over noise disturbance.

### **4.3.**

The draft DMG - Wind Energy Noise Assessment Definition is attached as Appendix 1 to this report.

## **5. Equalities Impact**

An Equality Impact Assessment (EqIA) has been undertaken for the Plan, which was endorsed by Council in 2017, therefore a standalone EqIA for this DMG is not required.

## **6. Island Communities Impact**

As the policy being developed in terms of this report has been assessed as being unlikely to have an effect on an island community which is significantly different from its effect on other communities (including other islands communities) in Orkney, a full Island Communities Impact Assessment has not been undertaken.

## **7. Environmental Implications**

A Strategic Environmental Assessment (SEA) has been undertaken in respect of the OLDP2017. It is not considered that SEA is required for this DMG as it meets the requirements for exemption under Schedule 2 of the Environmental Assessment (Scotland) Act 2005.

## **8. Links to Council Plan**

The proposals in this report support and contribute to improved outcomes for communities outlined in the Council Plan strategic priority of Growing our economy and Strengthening our community as it contributes to sustainable economic growth, works towards net zero and establishes the highest standards of public support and protection.

## **9. Links to Local Outcomes Improvement Plan**

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Local Outcomes Improvement Plan priority of Sustainable Development.

## **10. Financial Implications**

All resources associated with the preparation of this DMG have been met through staff time and is contained within existing Planning Service revenue budgets.

## **11. Legal Aspects**

Whilst DMG is not subject to public consultation, it is approved by the Council prior to publication. As such DMG is a material consideration in the determination of plannings which is considered to be the standing advice of the Planning Authority.

## **12. Contact Officers**

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## **13. Appendix**

Appendix 1: DMG – Wind Energy Noise Assessment Definitions.

## **Wind Energy – Definitions Associated with Noise Assessments**

### **Development Management Guidance (DMG)**

This DMG has been put together to provide definitions for 2 phases that are used when assessing the possible effects that wind energy development will have on other users in a location. The methodology used is detailed in the Department of Trade and Industry's publication of "The Assessment and Rating of Noise for Wind Farms."

To assist in the local use of this document in the determination of planning applications and the discharge of planning conditions; this DMG has been written to provide definitions for two phases used. They are:

Noise Sensitive Receptors; and

Financial Involvement

National Planning Framework 4 (NPF4) was published in February 2023 and now forms part of the Local Development Plan for Orkney. The policy stance in NPF4 for wind energy has changed but it is considered that this DMG is required.

### **The Definitions**

The definitions given below are without prejudice to the council's powers and duties under the Environmental Protection Act 1990 (as amended) in relation to statutory nuisances and supports the function of the Council as the planning authority to protect the amenity of existing users.

#### **Noise Sensitive Receptors**

Noise Sensitive Receptors are considered to be the land and buildings that fall into Classes 7 – Hotels and hostels, Class 8 - Residential institutions, Class 9 – Houses and Class 10 – Non-residential institutions; of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and sui generis uses where persons will sleep over night and use as accommodation for a period of time such as a short term holiday let.

It is considered that users of these classes to be able to enjoy the amenity of these locations without the disturbance of excessive noise from a neighbouring user.

#### **Financial Involvement**

Financial involvement means that the developer has direct control of the existing wind turbine and benefits financially from it. The developer therefore has the ability to turn off the wind turbine and change how it operates. This is so they can protect the amenity at the noise sensitive receptor. This is evidenced by legal documentation.

Drafted by Development and Marine Planning  
Orkney Islands Council  
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