

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
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12 September 2012

SUPPLEMENTARY AGENDA PACK 1

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE THURSDAY 13 SEPTEMBERB 2012 AT 10.30 AM IN AN CRIDHE, ARINAGOUR, ISLE OF COLL

I enclose herewith supplementary report 1 in respect of the item 3 of the above agenda.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

3. **GALLANACH GREEN GENERATION LTD: CONSTRUCTION OF 1 X 750KW WIND TURBINE (77M TO BLADE TIP), CRANE HARDSTANDING, CONTROL BUILDING, TEMPORARY CONSTRUCTION COMPOUND AND FORMATION OF VEHICULAR ACCESS: GALLANACH, ISLE OF COLL (REF: 11/01915/PP)**
Report by Head of Planning and Regulatory Services (Pages 1 - 8)

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor Gordon Blair	Councillor Rory Colville
Councillor Robin Currie	Councillor Mary-Jean Devon
Councillor George Freeman	Councillor Fred Hall
Councillor David Kinniburgh	Councillor Alistair MacDougall
Councillor Robert Graham MacIntyre	Councillor Donald MacMillan
Councillor Alex McNaughton	Councillor James McQueen
Councillor Sandy Taylor	Councillor Richard Trail

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**Argyll and Bute Council
Development Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/01915/PP

Planning Hierarchy: Local Development

Applicant: Mr Neil Smith

Proposal: Construction of 1 No. 750kw wind turbine (77 metres to blade tip), crane hardstanding, control building, temporary construction compound and formation of vehicular access

Site Address: Gallanach, Isle of Coll

SUPPLEMENTARY REPORT NO. 1

(A) Background

Since the public release of the Report of Handling on 09/08/12 the Planning Service has received correspondence from third parties, the applicant and the applicants' agent. These are detailed below with a response to each point. None of the submitted correspondence is from new parties and each has submitted representation previously.

Additional Submitted Correspondence:

Mr Andrew Milton, Hill Cottage, Isle of Coll, PA78 6TB (removal of support) (19/08/12)

- Although Mr Milton's name is on the list of supporters, Mr Milton states that he would like his name removed. He does not state whether or not he objects to the proposal and has previously withdrawn his name from the petition of objections.

Mr Tony Oliver, Druim Dearg, Isle of Coll, PA78 6TE (additional comments) (13/8/12)

- Mr Oliver refers to specific text within section P of the Report of Handling. He questions the assessment of the height of the turbine in relation to the rocky outcropping within which it would sit.

Comment: The base of the turbine is indeed at a lower level than the highest part of the rocky outcrop. From Viewpoint 1 the hub of the turbine will sit below the highest part of the rocky ridge. The report goes onto describe the height as being above the highest point which it is. The critique has picked up on part of the report without taking account of the context.

- Mr Oliver refers to the lack of assessment on the views from beaches at Cliad and Gallanach. He considers that this will impact adversely on tourism.

Comment: The section in the report that Mr Oliver refers to considers tourist facilities but considers built facilities such as heritage centres, museums etc. The beaches on Coll are part of the physical fabric of the island and there are many dotted around the islands' coastline. Although beaches can be tourist attractions it is not considered that, given the number of beaches on Coll, that the overall impact on beaches near to the turbine will be significant to the islands' tourist economy.

- Further comment on comparing the landscape on Jura to Coll.

Comment: The section in the report that Mr Oliver is referring to describes how to apply the Wind Energy Capacity Study (WECS) for smaller islands not specifically covered in detail within the document. The landscape consultants who wrote the study refer to Coll as having similar landscape typologies to that of Jura and Islay. Clearly there will be local distinctions but the landscape character types, where applicable on both islands, can be considered as similar.

- Mr Oliver comments that the WECS states that the smaller islands cannot accommodate turbines over 50m but yet the report is supporting this one at 77m. He queries the agreement of the applicants' submission.

Comment: The WECS is a technical document supporting the adopted development plan, for guidance purposes. There may be instances where turbines larger or smaller in a specific landscape character type may be appropriate. In this instance it is considered that the proposal is appropriate for the specific landscape for reasons contained within Section P and appendix A of the Report of Handling.

- The officers' visit has been queried by Mr Oliver and he wonders whether the correct island was visited in regard to the officer assessment of the impact on local beaches. He also queries the use of 'Viewpoint 10 – Killinuaig Church'.

Comment: This critique appears to be flippant based on Mr Oliver's lack of agreement with the assessment and recommendation. Indeed, there are some unfounded and derogatory comments in his submission. The site has been visited twice by officers to assess the impact and implications of the proposal. It should be noted that Killinuaig Church was included in the assessment as it is an important site for tourists who often stop and access the beaches and it forms part of the historic environment assessment.

Mr Colin Scott, Skerry, Isle of Coll (on behalf of Protecting Coll Group) (21/8/12, 7/9/12)

- Mr Scott makes comment in relation to the applicants' email of 16/8/12 to Members. Mr Scott's submission refers to Development Coll's search for a site for a community turbine prior to abandoning the project. Mr Scott also queries some of the letters of support.

Comment: The Planning Authority is obliged to assess and determine the application that has been submitted. With regard to the supporting letters the Planning Authority can only accept those that are submitted and if signatories wish to have their names removed from this list then they are able to write to us requesting this.

- Mr Scott queries the omission of a RAMSAR site from the assessment.

Comment: We acknowledge that section F(i) mistakenly states that there is no RAMSAR site on Coll. We apologise for this error. The Site of Special Scientific Interest (SSSI) and the Special Protection Area (SPA) beyond and to the north east of the site is also a RAMSAR site. Ornithology has been assessed thoroughly and researched by SNH, RSPB and the Appropriate Assessment by the Planning Authority that concludes that no unacceptable impacts exist to ornithology. The RAMSAR site is also a SSSI and SPA for the same qualifying interests. Therefore the comment within Section F of the Report of Handling that there is no RAMSAR site on Coll should be amended.

Mr Neil Smith, Gallanach Farm, Isle of Coll (applicant email to Councillor Freeman) (13/8/12, 16/8/12)

- Mr Smith comments that S&SE has confirmed that, in addition to this proposal, there will be capacity for units up to 50kw and larger units can be connected in 2017 when additional capacity is released on the grid.

Comment: Availability, or otherwise, of grid capacity is not a material planning consideration.

- Mr Smith queries the number of representations and their place of residence of each signatory. He also comments that some of those who made direct representation also signed the petition.

Comment: Regardless of a persons' place of residence, anyone can comment on a planning application and their representation will be considered appropriately. For the avoidance of doubt the Planning Authority has now received 47 individual representations

plus a petition with 67 signatories. Of these there are 29 objections, 14 in support and 4 representations. Of the 67 signatures on the petition 18 have submitted their own representation. A further 1 has requested their name be removed from both support and objection lists. There were an additional 7 letters of support with no addresses. This totals:

- 78 signatures on objections
- 21 signatures in support
- 4 signatures in representation.

The applicants' agent, Atmos Consulting, has submitted representation commenting on the Report of Handling specifically on the conditions and the proposed Section 75 agreement as recommended. This has been copied below for Members' information.

"The planning report for the Gallanach turbine application includes a proposed planning condition regarding goose mitigation. We feel that this condition is unnecessary and potentially fatal to the project in its current wording. We also feel that the related proposed Section 75 agreement is unwarranted. The condition is drafted as (see condition 5 of the Report of Handling)

The applicant is prepared to work with SNH, RSPB and the Planning Authority to agree a monitoring plan and would therefore accept the first three sentences of the proposed condition, down to ".....monitoring Greenland white-fronted goose." I would also note that Greenland white-fronted geese are not European Protected Species (EPS). The EPS list derives from a different part of the Habitats Directive and includes animals, rather than birds. It would be more accurate to term the geese as a qualifying species of the Coll Special Protection Area. The suggested requirements to establish a land management agreement and monitor the turbine for any collisions derives from the RSPB consultation letter. We understand that RSPB is offering to undertake the weekly monitoring of the proposal that would be the core of the monitoring, which is welcome. While this monitoring is, in our knowledge, unprecedented for such a modest project the applicant is content to assist with a monitoring programme. However, the linkage to potential shut down of the turbine is not acceptable. As I mentioned on the phone to you recently there is a fundamental issue in linking the monitoring to potential shut down which poses a serious risk to the viability of the project. Lending institutions would be unlikely to invest in a project where there was, in their eyes, very great uncertainty about how long the turbine might be shut down. If the current wording is retained in the planning condition this will likely pose a fundamental hurdle to progress of the project. In our opinion sufficient information has been provided to be able to robustly conclude that effects will pass the tests in the Habitats Regulations regarding developments connected to a designated site and therefore no further mitigation is required. If the tests could not be passed because it could not be concluded 'beyond reasonable scientific doubt' that the SPA would NOT be impacted then consent could not be issued. The assessment in the application is endorsed by SNH in that the tests can be passed and that no further work is needed to allow the application to progress.

Neither SNH nor RSPB have objected to the project and the Appropriate Assessment demonstrates that the tests within the Habitats Regulations can be passed without the need for further monitoring or mitigation. This application has been unique on Coll in having to undertake and present detailed ornithological surveys. Unlike the other projects on the island that are close to the same SPAs this project has been clearly able to demonstrate that impacts will be minor. Having experienced the significant planning costs associated with the surveys it seems that as a result of undertaking this comprehensive work the applicant is now being asked to provide significant additional mitigation post consent. In our opinion it is opportunistic of the RSPB to seek the land management and collision monitoring mitigation. Atmos is not aware of any similar scaled project which has been subject to such levels of obligation for ecological mitigation. The applicant is willing to liaise with SNH, RSPB and the local authority to explore the possibilities for further land management improvements on the land in the control of Mr Neil Smith that may assist the geese and corncrake. However, it is not considered proportionate to

seek a Section 75 agreement to cover land management for geese where neither SNH nor RSPB have objected, particularly for a scheme of this size. Mr Smith has a long and positive history of working with SNH and RSPB to manage his land in a way that is sensitive to the geese and corncrakes that use his land and he is more than willing to continue this. Adding the legal burdens of a Section 75 agreement seem unnecessary and disproportionate.

We respectfully request that the condition is amended to simply retain the first three sentences and the Section 75 burden for goose related land management is removed.

While we are on Conditions we would also mention that the project description (chapter 2 and Figure 2.1) identifies that the control building would be a GRP structure, very similar to the one beside the Tiree turbine. As such it is not appropriate to seek in Condition 4 natural stone/smooth cement or wet dash with a roof finish in natural slate of good quality substitute. I would propose that wording is revised for Condition 4 to "The control housing shall be of dark green matt finish, or other recessive colour as agreed in writing by the Planning Authority prior to works commencing."

The concerns of the agent are noted. The requirements of condition 5 and the proposed Section 75 legal agreement arise from a request by RSPB, in a similar fashion to planning gain. Whilst the control building is small, it is considered that the traditional finishes proposed in condition 4 will achieve a more appropriate finish for the site. The Service recommendation remains as stated in the original report.

(B) RECOMMENDATION:

It is recommended that, **subject to the prior conclusion of a Section 75 Agreement**, the application is granted for the reasons detailed in the report of handling and also subject to the conditions recommended below.

Author of Report: David Love

Date: 12/9/12

SF

Reviewing Officer: Stephen Fair

Date: 12/9/12

Angus Gilmour
Head of Planning

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/01915/PP

1. If, by reason of any circumstances not foreseen by the applicant or operator, the wind turbine, fails to produce electricity supply to a local grid for a continuous period of 12 months then it will be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the area of the site impacted by development shall be restored in accordance with the agreed scheme of restoration as per the supporting Environmental Statement, all to the satisfaction of the Planning Authority.

Reason: *In accordance with the Council's policy to ensure that full and satisfactory restoration of the wind turbine site takes place should it fall into disuse.*

2. No development shall commence or is hereby authorised until details of the colour finish to be applied to the turbine, rotors and mast have been submitted to and approved in writing by the Planning Authority. The development shall be implemented using the approved colour scheme and shall be maintained as such thereafter for the duration of the installation.

Reason: *In the interests of visual amenity.*

3. This planning permission shall be for a limited period, expiring 25 years from the commencement of the commercial operation of the development, the date of which shall first be notified in writing to the Planning Authority. Within 12 months of the end of that period, unless a further planning application is submitted and approved, the turbine and associated development shall be dismantled and removed from the site and the land reinstated in accordance with the applicant's statement of intentions as per the supporting Environmental Statement and conditions listed below, to the satisfaction of the Planning Authority.

Reason: *In order that the Planning Authority has the opportunity to review the circumstances pertaining to the consent, which is of a temporary nature and in the interests of the visual amenity of the area.*

4. The control building shall be faced in natural stone/smooth cement or wet dash render painted a dark grey colour (or other natural/recessive finish as agreed in writing by the Planning Authority) with the roof finished in natural slate or a good quality slate substitute, samples or full details of which shall be submitted for the prior written approval of the Planning Authority prior to building works commencing.

Reason: *In order to secure an appropriate appearance in the interests of amenity and to help assimilate the building into its landscape setting.*

5. Prior to the turbine becoming operational an ornithological monitoring programme should be developed and submitted for the approval of the Planning Authority in consultation with SNH and RSPB. This monitoring programme should provide an annual survey for collision-induced mortality. The survey should focus upon passage and wintering periods monitoring Greenland white-fronted goose. If monitoring indicates that collision mortality has been significant, as advised by SNH and RSPB, then appropriate mitigation measures should be implemented including the potential for a shutting down of the wind turbine over peak periods as informed by the survey work.

Reason: *In the interests of ecology and ensuring the protection of a European Protected Species (Greenland white fronted geese).*

6. At all times during the lifespan of the installation, the wind turbine approved shall be fitted with a 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms at the highest practicable point.

Reason: *In the interests of aviation safety.*

7. No development shall commence or is hereby authorised until the proposed access is formed in accordance with the Council's Standard Roads Drawing SD 08/004a; including visibility splays of 42 metres by 2.4 metres from the centre line of the proposed access with the bellmouth area surfaced in dense bitumen macadam for a distance of 5 metres back from the existing carriageway edge. Prior to work starting on site the bellmouth shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions over 1.0 metre in height above the level of the adjoining carriageway. The final wearing surface on the bellmouth shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions over 1.0 metre in height thereafter in perpetuity.

Reason: *In the interests of road safety.*

8. Prior to development commencing a method statement for an archaeological watching brief shall be submitted to and approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service. The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site. Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: *In order to protect archaeological resources.*

9. The development shall be implemented in accordance with the details specified on the application form dated 27/09/11 and the approved drawing reference numbers:

Plan 1 of 5 (Location Plan at scale of 1:5000)
Plan 2 of 5 (Block Plan at scale of 1:1250)
Plan 3 of 5 (Road Junction Plan at scale of 1:1250)
Plan 4 of 5 (Wind Turbine Elevations at scale of 1:250)
Plan 5 of 5 (Kiosk, GRP and Crane Hardstanding at scale of 1:440, 1:100)
Supplementary Transportation Information submitted by letter dated 25th January 2012
All mitigation measures recommended in the submitted Environmental Statement in the interests of nature conservation, including those at table 6.7

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- The Area Roads Manager has advised that a Roads Opening Permit (S56) is required for the proposed development, please contact him direct on 01631 569160 to discuss the matter further.
- **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]

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