

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 23 JANUARY 2019**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Rory Colville	Councillor Roderick McCuish
Councillor Robin Currie	Councillor Jean Moffat
Councillor Mary-Jean Devon	Councillor Alastair Redman
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor George Freeman	Councillor Richard Trail

**Attending:** Charles Reppke, Head of Governance and Law  
Angus Gilmour, Head of Planning, Housing and Regulatory Services  
Peter Bain, Development Manager  
David Moore, Senior Planning Officer  
David Cameron, JBA Consulting – Council’s Flooding Adviser

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Audrey Forrest and Graham Archibald Hardie.

**2. DECLARATIONS OF INTEREST**

Councillor Rory Colville declared a non-financial interest in the report advising of a Proposal of Application Notice from Diageo Limited which is dealt with at item 6 of this Minute as his son is employed by this Company.

Councillor Alastair Redman also declared a non-financial interest in this report as he had previously voiced his support for this proposal. Councillors Colville and Redman left the room and took no part in the consideration of this report.

**3. MINUTES**

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 19 December 2018 at 11.00 am was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 19 December 2018 at 2.00 pm was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 19 December 2018 at 2.20 pm was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 19 December 2018 at 2.40 pm was approved as a correct record.
- e) The Minute of the Planning, Protective Services and Licensing Committee held on 19 December 2018 at 3.00 pm was approved as a correct record.

#### **4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - TAXI AND PRIVATE HIRE CAR SURVEY**

A report asking Members if they wish to commission a further survey in relation to whether there is unmet demand for taxis and/or over provision of private hire car vehicles within the local authority area was considered.

##### **Decision**

The Committee agreed to:

1. note the contents of the report; and
2. commission a new taxi survey to ascertain whether there currently is any significant unmet demand for taxis and to include in this survey an assessment of whether there is over provision of private hire car licences in the locality.

(Reference: Report by Executive Director – Customer Services dated January 2019, submitted)

#### **5. ARDTARAIG WINDFARM LTD: ERECTION OF WIND FARM COMPRISING 7 WIND TURBINES WITH A MAXIMUM TIP HEIGHT OF 136.5M WITH ASSOCIATED INFRASTRUCTURE AND 4 BORROW PITS: ARDTARAIG WIND FARM, 3.1 KM TO THE EAST OF GLENDARUEL AND APPROX. 15KM WEST OF DUNOON, LOCH STRIVEN (REF: 18/01516/PP)**

The Development Manager spoke to the terms of the report and to supplementary report number 1 which addressed some inaccuracies at Section P and U of the original report. The proposal consists of up to 7 wind turbines each with a maximum height to blade tip of 136.5m together with associated infrastructure and 4 borrow pits. The site is located within the Ardtaraig Estate and extends to approximately 2,160 hectares. It is located immediately south of the existing Cruach Mhor Wind Farm which has 37 turbines. The Kyles of Bute National Scenic Area (NSA) is the closest national landscape designation to the site. There are also two statutory designated ecological sites within 5km of the proposed development – the Ruel Estuary Site of Specific Scientific Interest (SSSI) and the Glendaruel Woods and Crags SSSI. The site is located within the Kyles of Bute Area of Panoramic Quality (APQ) and the proposal is considered contrary to the Argyll and Bute Landscape Wind Energy Capacity Study (LWECS). In principle, the proposed development is considered to be a sustainable form of development that will offset the emission of over 900,000 tonnes of Carbon Dioxide equivalent per annum that would otherwise be emitted should the same amount of electricity be generated from fossil fuel sources. Scottish Natural Heritage has objected to the proposal on the grounds that the proposal would have an adverse effect on the special qualities and integrity of the Kyles of Bute NSA. SNH considers that these effects cannot be mitigated and they also have significant concerns regarding the landscape and visual impacts of this proposal. Scottish Wild Land Group have also objected to the proposal on the grounds that they believe the environmental and other impacts hugely outweigh any benefits. They raised particular concern about adverse impact on raptors, protected areas, wild land, tourism, questionable impacts on global warming, decommissioning/repowering and ancient woodland. At the time of writing the report a total of 356 letters of representations have been received comprising: 293 objections, 5 petitions of objection from the NAW group, 56 in support and 2

representations. A further 4 letters of objection have been received since publication of the report. The proposal is recommended for refusal for the reasons stated in the report subject to a discretionary hearing being held in view of the number of representations received both for and against the proposal and the complexity of the issues raised.

## **Decision**

The Committee agreed to hold a discretionary pre-determination hearing at the earliest opportunity.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 11 January 2019 and supplementary report number 1 dated 21 January 2019, submitted)

Councillor Mary-Jean Devon joined the meeting during consideration of the foregoing item.

**6. ARGYLL AND BUTE COUNCIL: ERECTION OF NEW LEISURE BUILDING INCLUDING SWIMMING POOL, IMPROVED FLOOD DEFENCES, NEW CAR PARK INCLUDING PUBLIC REALM WORKS AND DEMOLITION OF EXISTING SWIMMING POOL: HELENSBURGH SWIMMING POOL, 1B WEST CLYDE STREET, HELENSBURGH (REF: 18/01614/PP)**

Before the Senior Planning Officer presented the application the Head of Governance and Law requested the agreement of the Committee to alter the previously approved Minute of the Hearing held in respect of this application to include reference to Mr Black, one of the objectors, raising a concern about his view on a requirement for the Chair to declare an interest. Mr Black was advised that the declaration of an interest was for an individual Member to determine and that his concern would be noted in the Minute. The Committee agreed to this amendment to the Minute of the Planning, Protective Services Committee held on 19 November 2018.

The Chair then referred to late submissions received from Helensburgh Community Council and Helensburgh and Lomond Chamber of Commerce which were both tabled at the meeting.

Once the Committee were given time to read over these late submissions along with the late publication of supplementary report number 5, the Senior Planning Officer spoke to the terms of the report and, in particular, drew Members' attention to supplementary reports number 4 and 5. Supplementary report number 4 advised Members of additional matters following continuation of the application by the Committee on 19 December 2018. As requested by the Committee the Applicant had submitted further information to address the reasons for continuing the Application. Supplementary report number 5 referred to the receipt of a Memo from Helensburgh Community Council dated 10 January 2019 along with further submissions from the Applicant and Helensburgh Community Council following a meeting between the two parties on 16 January 2019.

In summary it remains the view of Officers that the proposal is in accordance with the policies of the adopted Local Development Plan and the approved 2012 Masterplan. There have been no objections from statutory consultees other than Helensburgh

Community Council. The proposal fulfils its role as a landmark building on this prominent and important site. The new leisure facility will provide benefits for the whole community and also tourists and visitors to the town. No technical objections are raised on flooding matters which have now been fully addressed using the most up to date climate change information to inform the amended flood defence measures proposed. On this basis the Senior Planning Officer recommended that planning permission be granted subject to the revised conditions 1 – 10 and 12 – 15 appended to supplementary report number 2 and to the amended condition 11 detailed in supplementary report number 5.

### **Motion**

To agree to grant planning permission subject to the conditions referred to by the Planning Officer.

Moved by Councillor David Kinniburgh, seconded by Councillor Alastair Redman

### **Amendment**

To agree to continue consideration of the application to enable Members to investigate options for framing a competent Motion to refuse the application based on flooding, drainage and design issues.

Moved by Councillor George Freeman, seconded by Councillor Lorna Douglas

The Motion was carried by 6 votes to 2 and the Committee resolved accordingly.

### **Decision**

The Committee agreed to grant planning permission subject to the following conditions and reasons:

1. The development shall be implemented in accordance with the details specified on the application form dated 20.7.2018 and the approved drawing reference numbers

1251-DB3-B01-01-DR-A-2000	Basement Plan
1251-DB3-B01-01-DR-A-2001	Ground Floor Plan
1251-DB3-B01-01-DR-A-2002	First Floor Plan
1251-DB3-B01-01-DR-A-2003	Roof Plan
1251-DB3-B01-ZZ-DR-A-20200	Proposed Elevations
1251-DB3-B01-ZZ-DR-A-20301	General Sections 1
1251-DB3-B01-ZZ-DR-A-20302	General Sections 2
1251-DB3-B01-ZZ-DR-A-90000	Site Location Plan
1251-DB3-B01-ZZ-DR-A-90001	Existing Site Plan
1251-DB3-B01-ZZ-DR-A-90002	Proposed Site Plan Rev E
1251-DB3-B01-ZZ-DR-A-90003	Existing Site Sections
1251-DB3-B01-ZZ-DR-A-90004	Proposed Site Sections
00045-02-003E	Proposed Site Plan
00045-02-004F	Proposed Sections
00045-02-005F	Site Sections
00045-02-006H	Alternate Indicative Method of Construction
00045-02-007B	South-West Slipway Section

00045-02-008B	Proposed East Slipway
00045-02-009D	Flood Defence Construction Sequence
00045-02-010C	Retaining Wall and Sections
00045-02-011B	Outline Traffic Management Plan
1450-01/D	Landscape Proposals West Boundary and Pier
1450-02/E	Landscape Layout and Finishes
1450-03/B	Soft works Specifications
1450-04/C	Landscape Layout Waterfront Walkway
1450-05/A	West Boundary and Pier Sections
1450-06/B	Landscape Layout West Clyde Street
G17050_281_2	Existing Drainage Layout
G17050_281_3	Preliminary Drainage Strategy Layout and SuDS
G17050_200	Proposed Surface Water Drainage Layout
Entrance Visual	3D Image
South Context Visual	3D Image
West Elevation Visual	3D Image
Existing Swimming Pool	1 of 3
Existing Swimming Pool	2 of 3
Existing Swimming Pool	3 of 3
1251-DB3-B01-EX-DR-E-63 01	Proposed External Lighting Scheme
1251-DB3-B01-EX-DR-E-63 02	Proposed External Lighting Scheme

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.

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

2. Prior to development commencing, an Environmental Management Plan shall be submitted to and approved in writing by the Planning Authority. The Plan shall address requirements arising from the construction phases of the development and shall inform the production of construction method statements. This shall include details of the following:
  - A construction method statement to demonstrate how potential impacts on otters and their safety shall be incorporated into normal site working practices and having regard to the recommendation contained in the Protected Species Survey Report
  - In the event that piling is required a noise impact assessment on Marine Mammals together with proposed mechanisms to mitigate any identified adverse impacts
  - A ground works phasing and waste management plan associated with movement/storage of all waste materials.
  - Details of the location of construction compounds to be formed
  - Details of the number of existing parking spaces lost at each main construction phase of the development in order to minimise the loss of existing parking during construction.
  - Details of any external lighting to be used during construction

- Full land restoration details; to ensure that the land within the application site where it has been physically altered by the construction of the development or demolition of existing buildings/structures and the ground level raised, is restored to an acceptable appearance.
- Details of arrangements to retain access for emergency services to the far southern pier head area delineated as area 16 in the proposed site plan.
- Adherence to the requirements of any other submitted and approved details and other conditions

The development shall be implemented in accordance with the duly approved Environmental Management Plan unless any variation thereof is agreed in writing by the Planning Authority.

*Reason: To ensure unacceptable environmental, wildlife or amenity consequences do not arise due to the construction of the development and appropriate mitigation measures, where required, are implemented.*

3. No development shall be commenced until the following plans and particulars have been submitted to and approved in writing by the Planning Authority in consultation with the Head of Roads. Thereafter the development shall be implemented in accordance with the approved details. Such details shall incorporate:
  - (i) A detailed construction method statement including the construction phasing and the material delivery plan.
  - (ii) The interim car parking arrangements to address the loss of existing parking provision during the construction phases.

*Reason: In the interests of roads safety and to maximise available parking spaces availability during construction.*

4. No public use of the building shall commence until a minimum of 155 parking spaces (including disabled spaces) and all vehicular servicing areas associated with the operational use of the building have been provided in accordance with the details hereby approved. Thereafter the remaining parking spaces shall be provided within 12 months of the building being first brought into use.

*Reason: In the interests of roads and pedestrian safety and to ensure that there is sufficient parking to support the leisure facility and town centre.*

5. Notwithstanding the effect of condition 1, no development shall commence until samples and/or full details of materials to be used in the construction of:
  - (i) external material finishes of the building
  - (ii) any other visible walls/retaining structures to be constructed;
  - (iii) roads and parking areas;
  - (iv) footpaths;
  - (v) shared surfaces

have been submitted to and agreed in writing by the Planning Authority. The development shall thereafter be completed using the approved materials, or such alternatives as may be agreed in writing with the Planning Authority.

*Reason: In order to secure the use of appropriate materials in the interests of visual amenity.*

6. No occupation of the approved building shall commence until details for the arrangements for the storage, separation and collection of waste from the site, including provision for the safe pick-up by refuse collection vehicles, have been submitted to and approved in writing by the Planning Authority. Thereafter the duly approved provision shall be implemented prior to the first occupation of the building.

*Reason: In order to ensure that satisfactory arrangements have been made for dealing with waste on the site in accordance with Policy SG LDP SERV 5(b).*

7. Details the specific species and size/mix/numbers of the proposed planting throughout the site on those areas identified to be landscaped shall be submitted for the written approval of the Planning Authority in consultation with the Biodiversity Officer within six months of the date of this permission, together with details of the proposed maintenance regime associated with the planting and clarifying the parties responsible for such future maintenance. Thereafter the duly approved planting shall be implemented in the first available planting season following the substantial completion of the development. Any planting which fails to become established, dies, becomes seriously diseased or is removed within the first 12 months of having been planting shall be replaced in the following planting season with equivalent sizes and species as those originally required to be planted.

*Reason: In the interests of amenity and biodiversity.*

8. No construction plant and/or machinery shall be operated on the site outwith the following times: 08.00 – 18:00 Monday – Friday, 08:00 – 13:00 Saturday. No construction plant and /or machinery shall be operated at any time on Sundays, Bank or Public Holidays unless otherwise approved in writing by the Planning Authority in consultation with Environmental Protection.

*Reason: In order to control noise nuisance in the interest of amenity.*

9. Prior to commencement of development, full details of all external lighting shall be submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary. Thereafter the development shall be completed in accordance with these details

*Reason: In order to avoid light pollution in the interest of amenity*

10. Notwithstanding the provisions of Condition 1, the development shall be implemented in accordance with the flooding amelioration details and recommendations set out in the Kaya Flood Risk Assessment (December

2018) and approved plans; 00045-02/004F, 00045-02/005F, 00045-02-006H, 00045-02-007B, 00045-02-10C and 1450-04/B

1. Finished floor level of the main building to be at least 5.4 mAOD. Finished floor level of the plant room to be at least 4.7 mAOD. The plant room shall incorporate additional flood mitigation measures including raised equipment and a flood proof access door. Details of the flood proof access door shall be submitted to the Planning Authority for their written approval prior to the use of the building commencing.

2. The site operator(s) of the building, car park, and coastal defences shall maintain the approved flood mitigation measures through the lifetime of the development.

3. A severe weather plan shall be developed, and thereafter implemented by the site operator(s) of the building, car park and pathways adjacent to the coastal defences prior to the use of these areas by members of the public. This shall include actions to be undertaken in the event of forecast or actual severe weather (including high winds and flooding) such as closure of the public footway at the flood defences, management of the plant room fire exit door during a severe weather event, and safe evacuation of the site. Full details of this plan shall be submitted to and approved in writing by the Planning Authority prior to the building and other land being brought into use by members of the public.

*Reason: In order to ensure appropriate mitigation for flood risk and to safeguard public safety.*

11. Prior to development commencing, details of the intended means of surface water drainage to serve the development, and in particular the land adjacent to the sea wall defences, shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. The duly approved scheme shall be implemented in full concurrently with the construction of the development and shall be operational prior to the occupation of the development and maintained as such thereafter.

*Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.*

12. Prior to the first occupation of the building, a comprehensive Green Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. The Travel Plan shall include details of:
- i) The proposed monitoring schedule and reporting procedures;
  - ii) The management of the Travel Plan identifying the persons responsible for implementation;
  - iii) Proposed pedestrian and cycle infrastructure within the site and connections to existing networks;
  - iv) Cycle parking provision and location within the site;
  - v) Measures to improve public transport facilities;
  - vi) Initiatives such as, electric car facilities, car share scheme and flexible working;



- vii) Employee locker facilities;
- viii) Travel information to be provided within the site.

Thereafter the provisions of the plan shall be implemented as part of the operation of the approved development.

*Reason: To ensure an appropriate level of public transport infrastructure is available to residents of the new development.*

13. Prior to commencement of development, an assessment of the condition of the land shall be undertaken, submitted and approved in writing by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites.

Where contamination is identified, then a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared and be subject to the approval in writing of the Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Any approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development with the exception of those actions required to carry out remediation unless otherwise agreed in writing by the Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation must be produced, and is subject to the approval in writing of the Planning Authority.

*Reason: In order to ensure that contamination issues on the site have been fully investigated and remediated.*

14. The level of noise emanating from the site following commencement of the permitted use shall not exceed the established background noise level LAeq (90) at the survey location by more than 5dB(A) unless otherwise approved in writing by the Planning Authority. Any plant and machinery should not produce any noise that has a distinguishable, discrete, continuous note or distinctive impulses.

*Reason: In order to avoid noise nuisance in the interest of amenity.*

15. Prior to the removal of the existing skate park, details of the proposed temporary skate park to be reinstated following the raising of the land shall be submitted to and approved in writing by the Planning Authority. These details shall include the location and type of equipment to be reinstated and timescales for the reinstatement of this facility which should be adhered to unless as otherwise agreed in writing.

*Reason: To ensure the continued provision of a skate park facility until an application relating to a permanent new facility is submitted and approved*

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 9 October 2018, supplementary report number 1, supplementary report number 2 dated 12 December 2018, supplementary report number 3 dated 18 December 2018, supplementary report number 4 dated 4 January 2019 and supplementary report number 5 dated 22 January 2019, submitted, additional submissions from Helensburgh Community Council and Helensburgh and Lomond Chamber of Commerce dated 22 January 2019, tabled)

Having previously declared an interest in the following item, Councillors Rory Colville and Alastair Redman left the room.

**7. DIAGEO LIMITED: PROPOSAL OF APPLICATION NOTICE FOR PROPOSED DISTILLERY: PORT ELLEN MALTINGS, PORT ELLEN, ISLE OF ISLAY (REF: 18/02639/PAN)**

The Development Manager spoke to the terms of the report. A Proposal of Application Notice (PAN) seeks to notify the Planning Authority of a prospective major planning application to re-open the former Port Ellen distillery adjacent to the malting in the northern end of the settlement just off the A846 public road, with new buildings, associated infrastructure and visitor's experience. The site extends over approximately 4Ha. The application site lies within the Key Rural Settlement of Port Ellen. Islay is identified in the Local Development Plan Spatial Strategy as a 'Tourism Development Area'. A number of nature designations are also identified in the spatial strategy, and the entire island is designated a 'Water Conservation Area'. The site is located within settlement zone, an established business and industry area and Area of Action (reference 10/4 – environment enhancement) as defined by the Local Development Plan. The scale of the intended development is 'large' in terms of the typologies established by the LDP (site in excess of 2 hectares). The report summarises the policy considerations, against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. It is recommended that Members have regard to the content of the report and submissions and provide such feedback as they consider appropriate in respect of the PAN in order to allow these matters to be considered by the Applicants in finalising any future planning application submission.

**Decision**

The Committee agreed that the following issues should be taken into consideration by the Applicant in finalising any future planning application submission:

- a) Impact on the road network;
- b) Impact on water and drainage infrastructure;
- c) The availability of housing for any workers moving to the island;
- d) The inclusion of a pavement to allow the village of Port Ellen to join up with the housing development beyond the distillery; and
- e) The inclusion of electric charging points for vehicles.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 3 January 2019, submitted)

Councillor Donald MacMillan left the meeting during consideration of the foregoing item.

At that point the Committee joined the Chair in congratulating Councillor MacMillan on his recent award of the British Empire Medal.