

**ARGYLL AND BUTE COUNCIL
DEVELOPMENT AND ECONOMIC GROWTH**

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE – 15TH DECEMBER
2021**

UPDATE ON RECENT SCOTTISH MINISTERS PLANNING APPEAL DECISION

OUR REFERENCE: 18/01216/S36

DPEA REFERENCE: WIN-130-4 (SECTION 36 WIND FARM)

**CASE DETAIL: APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY
ACT 1989 TO CONSTRUCT AND OPERATE BLARGHOUR WIND FARM
COMPRISING 17 TURBINES WITH GROUND TO BLADE TIP HEIGHT
OF 136.5 METRES**

**SITE ADDRESS: BLARGHOUR WIND FARM, 7KM NORTH WEST OF INVERARAY &, 4.5
KM SOUTH OF PORTSONACHAN, PA33**

APPLICANT: BLARGHOUR WIND FARM LTD

**STATUS: SCOTTISH MINISTERS HAVE MADE A DECISION ON THIS CASE -
CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND
DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
WAS GRANTED ON THE 29 OCTOBER 2021**

A) INTRODUCTION

In Scotland, any application to construct or operate an onshore power generating station, in this case, a wind farm, with an installed capacity of over 50 megawatts (MW) requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Any ministerial authorisation given includes a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of a consultee along with various other consultation bodies. It is open to the Council to either support or object to the proposal, and to recommend conditions it would wish to see imposed in the event that authorisation is given by the Scottish Government.

In the event of an objection being raised by the Council, as was the case with this proposal, the Scottish Ministers are obliged to convene a Public Local Inquiry (PLI). The Inquiry was conducted by a Reporter(s) appointed by the Directorate for Planning and Environmental Appeals.

This report summarises the recent decision made by Scottish Ministers to grant Section 36 consent and deemed planning permission for Blarghour Wind Farm. As consent has been

given, the Council as Planning Authority will be responsible for the agreement of matters pursuant to conditions, and for the ongoing monitoring and enforcement of such conditions.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) REPORTERS CONCLUSIONS AND RECOMMENDATION TO SCOTTISH MINISTERS

Reporter's Conclusions

The site is within an area of significant protection given that it is located in an area with priority peatland habitat. For this reason careful and detailed consideration of the impact on that resource is required. However my conclusion is that the balance of evidence demonstrates that such assessment is demonstrated and that significant effects can be avoided and appropriate mitigation secured. The proposal has significant landscape effects mainly focussed on a section of the shore of Loch Awe around Dalavich and extending to Loch Avich. However the extent of the identified effects is contained and localised. My conclusion is that the impact is not unacceptable when considered alongside the wider benefits and the contribution it would make to achieving national energy objectives. Other matters raised are addressed including through the recommended conditions. Overall policy compliance is demonstrated having regard to the consideration in Schedule 9, paragraph 3 of the Act. Recommendations: I recommend that Section 36 consent be granted and that planning permission be deemed to be granted, subject to the satisfactory completion of an appropriate assessment as set out at paragraph 5.16-5.18 and subject to the conditions listed in Appendix one (these can be viewed in detail by following the link below).

Reporters Recommendation to Scottish Ministers

The Reporter recommend that Section 36 consent be granted and that planning permission be deemed to be granted, subject to the satisfactory completion of an appropriate assessment as set out at paragraph 5.16-5.18 and subject to the conditions listed in Appendix one (these can be viewed in detail by following the link below).

The Scottish Ministers' Decision

The Scottish Ministers have considered fully the Reporter's findings and reasoned conclusions and adopt them for the purposes of their own decision. For the reasons set out in this letter, the Scottish Ministers agree with the Reporter's recommendation that section 36 consent should be granted for the construction and operation of the Blarghour Wind Farm and that a direction for deeming planning permission should also be granted. Subject to the conditions set out in Part 1 of Annex 2, the Scottish Ministers grant consent under section 36 of the Act for construction and operation of the Blarghour Wind Farm electricity generating station in the Argyll and Bute Council area (as described in Annex 1). Subject to the conditions set out in Part 2 of Annex 2, the Scottish Ministers direct under section 57(2) of the Town and Country Planning (Scotland) act 1997 that planning permission be deemed to be granted in respect of the Development described in Annex 1.

The Reporters Inquiry Report and Scottish Ministers decision can be viewed on the DPEA website at the following link:

[Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/topics/dpea/cases/blarghour-wind-farm)

D) IMPLICATIONS

Policy: None.

Financial: None.

Personnel: None

Equal Opportunities: None

Author: Arlene Knox **Date:** 1st December 2021

Fergus Murray

Head of Development and Economic Growth