

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 19 APRIL 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Willie Hume
Councillor Jan Brown	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Paul Donald Kennedy
Councillor Amanda Hampsey	Councillor Liz McCabe
Councillor Daniel Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Fiona Howard	

Attending: Shona Barton, Governance Manager
Peter Bain, Development Manager
Alan Morrison, Regulatory Services and Building Standards Manager
Fiona Macdonald, Solicitor
Sandra Davies, Major Applications Team Leader
Arlene Knox, Senior Planning Officer

1. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Mark Irvine.

2. DECLARATIONS OF INTEREST

Councillor Paul Kennedy declared a financial interest in Agenda item 4 (Civic Government (Scotland) Act 1982: Taxi Fare Scale Review) as he held a Taxi Operator Licence and a Taxi Driver Licence within Argyll and Bute. He left the room and took no part in the consideration of this report which is dealt with at item 4 of the Minute.

3. MINUTES

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 22 March 2023 at 11.30 am was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 22 March 2023 at 2.00 pm was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 22 March 2023 at 2.30 pm was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 22 March 2023 at 3.00 pm was approved as a correct record.

Having previously declared an interest in the following item, Councillor Paul Kennedy left the meeting at this point.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI FARE SCALE REVIEW

In terms of Section 17 of the Civic Government (Scotland) Act 1982, the local authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area. The fares were last reviewed by Members on 23 March 2022 and took effect on 22 April 2022. The next fares scale will need to come into force in October 2023.

Consideration was given to a report seeking approval of the commencement of the next review of taxi fares and other charges.

Decision

The Committee agreed:-

- 1) to commence the review of fares in order that this could be completed within the 18 months required in terms of the Act; and
- 2) that the consultation required in terms of the Act would be writing.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 19 April 2023, submitted)

Councillor Kennedy returned to the meeting.

5. THE SCOTTISH GOVERNMENT ON BEHALF OF SCOTTISH POWER RENEWABLES (UK) LIMITED: ELECTRICITY ACT SECTION 36 CONSULTATION FOR EARRAGHAIL RENEWABLE ENERGY DEVELOPMENT, COMPRISING THIRTEEN ONSHORE WIND TURBINES AROUND 78MW, SOLAR PHOTOVOLTAIC ARRAY AROUND 5MW AND BATTERY STORAGE TECHNOLOGIES (BESS) AROUND 25 MW: LAND SOUTH OF TARBERT AND NORTH OF SKIPNESS (REF: 22/00445/S36/ECU00003421)

The Major Applications Team Leader spoke to the terms of the report and also advised of recent correspondence submitted to the Energy Consents Unit, including objections from Arran Community Council, the Kintyre Way and ScotWays, and the final sign off from Ironside Farrar, the Energy Consents Unit adviser on Peat matters. These will be considered by the Energy Consents Unit in their consideration of the application and do not alter Officers' recommendation on this proposal as detailed in the report of handling.

In Scotland, any application to construct or operate an onshore power generating station 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 would include 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, the Scottish Ministers are obliged to convene a Public Local Inquiry if they are minded to approve the proposal.

The proposed development site lies within the Upland Forest Moor Mosaic Landscape Character Type identified in the Argyll & Bute Landscape Wind Energy Capacity Study, and is located within the forestry areas of Skipness and Corranbuie between Tarbert, to the north east, and Skipness, to the south, situated within the northern part of the Kintyre Peninsula. In terms of the Local Development Plan proposals map, the proposal is predominantly located within 'Very Sensitive Countryside'.

This report reviews the policy considerations which are applicable to this proposal and the planning merits of the development, the views of bodies consulted by the Scottish Government along with other consultations undertaken by the Council, and third party opinion expressed to the Scottish Government.

It was recommended that the Council raise an objection to this Section 36 consultation on Landscape & Visual and Aviation Grounds for the reasons detailed in the report of handling.

Decision

The Committee agreed, on behalf of the Council, as Planning Authority, to object to this proposal for the following reasons and that the Scottish Government be notified accordingly:-

1. Landscape & Visual Impact (including cumulative)

The proposed development site lies within the Upland Forest Moor Mosaic Landscape Character Type (LCT) identified in the Argyll & Bute Landscape Wind Energy Capacity Study. This landscape has some characteristics which reduce sensitivity to large scale wind energy development including a generally simple landform and land cover and an expansive scale. These uplands already accommodate a number of operational and consented wind farms. One of the more sensitive features of this LCT is the rugged and minimally modified coastline between Skipness and Tarbert.

There would be relatively limited visual intrusion associated with the proposal from the West Loch Tarbert area, Gigha and the eastern and western coastal edges of Kintyre. The proposal would however be widely visible across the broad sea basin formed by outer Loch Fyne, the Sound of Bute and the north Kilbrannan Sound and from the western part of the Ardlamont Peninsula and the north Arran coast and hills.

This proposal would have significant adverse effects on part of the Upland Forest Moor Mosaic LCT affecting the development site and an area approximately 3km beyond outer turbines. The proposal would also have significant adverse indirect effects on the character of part of the Rocky Mosaic LCT over the western part of the Ardlamont Peninsula. An area of seascape (comprising the broad sea basin of outer Loch Fyne, the northern part of the Kilbrannan Sound and the western Sound of Bute and associated coastal fringes) would also be significantly and adversely affected by the proposal.

The proposal is not located in a designated or otherwise formally valued landscape but it would indirectly and significantly affect some of the qualities of the Area of Panoramic Quality (APQ) covering the western part of the Ardlamont Peninsula.

In terms of visual impact, this proposal would principally significantly affect views from the western coast and open hills of the Ardlamont Peninsula including from parts of the

Portavadie Marina resort. It would have significant adverse effects from the sea including from the Tarbert/Claonaig to Lochranza and Portavadie to Tarbert ferries, which are routes popular with tourists, and from a section of the Kintyre Way.

This proposal could be one of the first wind farms to introduce lighting to the dark skies of Argyll & Bute with all 13 turbines having visible aviation lighting on nacelles and towers. The Applicant has committed to installing an Aircraft Detection Lighting System (ADLS). Such a system would substantially reduce the duration of night-time lighting as lights would only come on when an aircraft approaches. The effects of constant night-time lighting (without the installation of an ADLS) would be significant and adverse from parts of Argyll & Bute and north Arran but would not be significant if an ADLS was installed.

All wind farm proposals are likely to incur significant landscape and visual effects and it is therefore important to gauge the range, extent and severity of effects in making judgements on acceptability in landscape and visual terms. Having evaluated the likely landscape and visual effects of this proposal, and additionally compared these with operational, consented and application-stage wind farms, Argyll & Bute Council object on landscape and visual grounds. This is principally because this proposal would introduce new visibility of prominent wind farm development into the Ardlamont Peninsula, affecting its character (including part of the APQ covering this area) and views from coastal walks, Kilbride Beach, the B8000 and from the Portavadie Marina resort. This area is promoted as Argyll's 'Secret Coast' and is valued for its scenic qualities as evidenced by the APQ designation. The significant adverse effects that would affect the character of a broad seascape area (encompassing outer Loch Fyne/the western Sound of Bute and northern part of the Kilbrannan Sound) and also effects on views from the ferries across Loch Fyne and to Arran, which are popular with visitors, are of equal concern.

Having due regard to the above it is concluded that the proposal will have significant adverse landscape and visual impacts and is therefore inconsistent with the provisions of: Policy 11 – Energy and Policy 4 – Natural Places of National Planning Framework 4, Policies LDP 6 – Supporting the Sustainable Growth of Renewables; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; and SG LDP ENV 14 – Landscape; SG 2 Renewable Energy of the Argyll & Bute Local Development Plan; and guidance contained in the Argyll & Bute Landscape Wind Energy Capacity Study 2017.

2. Aviation

National Air Traffic Services Safeguarding (NATS) have advised that an unacceptable technical impact is anticipated and they object. Glasgow Prestwick Airport advise that the development raises aviation safety concerns which have an operational impact on the airport as an air navigation services provider. Until all technical and operational aviation safety matters are addressed to the satisfaction of Glasgow Prestwick Airport, and a mitigation agreement is put in place for the life of the wind farm, the airport also objects to the proposal.

National Development Plan Policy 11 – Energy requires aviation matters to be addressed, and Local Development Plan Policy is clear that developments that have an adverse impact on the Safeguarding of Airports should be refused.

Having due regard to the above it is concluded that due to the fact that National Air Traffic Services Safeguarding (NATS) and Glasgow Prestwick Airport have advised the Energy Consents Unit that they object to the proposal, it will have an adverse impact on aviation and is therefore inconsistent with the provisions of: Policy 11 – Energy of National Planning Framework 4, Policy LDP 6 – Supporting the Sustainable Growth of Renewables, Policy SG TRAN 7 – Safeguarding of Airports, and Supplementary Guidance 2 – Renewable Energy of the Argyll & Bute Local Development Plan.

Argyll & Bute Council therefore object to the proposal due to the adverse impact it would have on Aviation. The Energy Consents Unit should please note that in the event that National Air Traffic Services (NATS) and Glasgow Prestwick Airport withdraw their objections, then Argyll & Bute Council would no longer object on these grounds. Should these objections not be removed and the proposal progresses to an Inquiry, Argyll & Bute Council would defer to National Air Traffic Services and Glasgow Prestwick Airport as the Technical Experts on this matter.

Notes for the Energy Consents Unit

Battery Storage – Whilst, the provision of battery storage meets the requirements of policy, Officers are concerned that no consideration has been given to the Landscape & Visual Impact of this battery storage facility. This is would comprise large shipping containers located in a rural landscape. Before a decision is reached on this proposal by the ECU it is the view of Argyll & Bute Council that any impacts of this needs to be considered/clarified

Noise – Argyll & Bute Council would be grateful to receive clarification from the Applicant in respect to the points raised by the Noise Consultant on residential receptors (derelict properties).

Historic Environment - Whilst it is acknowledged that Historic Environment Scotland have not objected to this proposal, it has not been possible for Argyll & Bute Council to reach a conclusion on the proposals acceptability in this regard in the absence of advice from the West of Scotland Archaeology Service.

(Reference: Report by Head of Development and Economic Growth dated 6 April 2023, submitted)

6. JOINT PUBLIC HEALTH PROTECTION PLAN 2023-2025

Local authorities have a significant role to play in public health and health protection. The Public Health etc. (Scotland) Act 2008 places a requirement on NHS Boards to prepare, in conjunction with local authorities, a Joint Public Health Protection Plan every 2 years. The plan requires to be formerly adopted by each agency, and must outline the health protection priorities for the forthcoming period of the plan.

A report inviting Members to endorse the Joint Public Health Protection Plan which outlined the health protection priorities for the period 1 April 2023 to 31 March 2025 was considered.

Decision

The Committee agreed:

1. to approve the Joint Public Health Protection Plan for 2023-25, recognising the key role of local authorities and environmental health;
2. to formally reaffirm the appointment of the Regulatory Services and Building Standards Manager, as the Council's Designated Competent Person under the Public Health etc. (Scotland) Act 2008, and the appointments of Depute Designated Competent Persons as detailed in section 4.8 of the report and 4.2. of the Joint Public Health Protection Plan; and
3. that the Regulatory Services and Building Standards Manager signs the Joint Public Health Protection Plan on behalf the Council, and takes the necessary steps to deliver the plan including the appointment of appropriate competent authorised officers, and provides a progress report to Committee in May 2024.

(Reference: Report by Executive Director with responsibility for Regulatory Services dated 19 April 2023 and NHS Highland Joint Public Health Protection Plan 2023-2025, submitted)

7. PRIVATE HIRE CARS AND TAXIS LICENSED IN ARGYLL & BUTE

A report providing an update on the number of private hire cars and taxis across the licensing authority's area was before the Committee for information.

Decision

The Committee noted the contents of the report.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 27 March 2023, submitted)