

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: 10/00909/PP

Planning Hierarchy: Major

Applicant: SSE Renewables Developments (UK) Limited

Proposal: Erection of 10 Wind Turbines (111.25m to blade tip), permanent anemometer, electric sub-station and ancillary development

Site Address: Cour Wind Farm, by Carradale, East Kintyre

SUPPLEMENTARY REPORT No. 2

A. SUMMARY

The purpose of this report is to update Members on observations made by the RSPB and SNH on the conditions recommended in Planning and Regulatory Services report dated 28th September 2012 and the Supplementary Report 1 dated 10th October 2010. Furthermore to correct an erratum detailed within said report dated 28th September 2012.

B. FURTHER CONSULTEE ADVICE FROM RSPB & SNH ON RECOMMENDED PLANNING CONDITIONS

RSPB (11th October 2012) – are pleased to see conditions for black grouse and also the Construction Environmental Management Plan (CEMP). Unfortunately, they still have serious outstanding concerns in relation to the impacts on Red Throated Diver (Annex 1 species). Sufficient mitigation isn't provided in the ES therefore it is essential that robust conditions are included for this species. RSPB therefore request the changes to conditions 30, 31 and a new condition 32 (detailed below) in relation to the Red Throated Diver Plan; inclusion of a Habitat Management Plan to address the impacts on blanket bog and heath communities described in the ES; and the RSPB should be consulted on the details of the CEMP and Red Throated Diver plan. Without these amendments to conditions 30, 31 and the new condition 32 the RSPB position should be considered as one of objection.

30. Prior to the commencement of construction work a Construction Environmental Management Plan (CEMP), should be submitted to the Council as Planning Authority for consultation with SNH, the Royal Society for the Protection of Birds (RSPB) and SEPA. The CEMP shall include details of all construction-period environmental best-practice mitigation, and shall include a Peatland Management Plan, a Mammal Protection Plan, a Breeding Bird Management Plan and a Habitat Management Plan. The development shall thereafter be implemented in full accordance with the duly approved measures.

Reason: In order to protect and avoid disturbance to protected species in the interests of nature conservation.

31. Prior to the commencement of construction work, including forestry operations, a Black Grouse Habitat Management Plan shall be developed in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds and shall be submitted and be approved in writing by the Council as Planning Authority in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds. The plan shall be implemented at such time as forestry operations commence, for the full duration of both the construction and operational phases of the development, in accordance with the duly approved measures, and in order to deliver ecological enhancement and to yield net ecological gain as a result of the development.

Reason: In the interests of nature conservation.

32. Prior to the commencement of construction work, including forestry operations, a Red-Throated Diver Habitat Management Plan shall be developed in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds and shall be submitted and be approved in writing by the Council as Planning Authority in consultation with Scottish Natural Heritage. The plan may include collision mortality searches, deployment and maintenance of artificial rafts, monitoring of flight lines and breeding success for the pre-construction, construction and post construction phases and provision of measures to address any significant adverse effects on Red-Throated Divers that may occur. The plan shall be implemented at such time as forestry operations commence, for the full duration of both the construction and operational phases of the development, in accordance with the duly approved measures.

Reason: In the interests of nature conservation.

Argyll District Salmon Fishery Board (10th July 20120) – no objection subject to submission of a pre-construction fish and habitat survey of the Narrachan and Ballochroy Burns, including all species of fish, post construction monitoring, ‘fish friendly’ stream crossing, and providing during construction phase, guidelines designed to prevent silting and pollution of watercourses are followed.

In light of the above consultation response it is also recommended that an additional condition be added as detailed below:

33. Prior to the commencement of development, a pre-construction fish and habitat survey including all species of fish, exact details and specifications of all stream crossings and details of a programme for monitoring wild fish populations in the Narrachan and Ballochroy Burns for the years of operation 1 to 5 inclusive shall be submitted and approved in writing by the Council as Planning Authority, in consultation with Scottish Natural Heritage and the Argyll District Salmon Fishery Board. Thereafter monitoring results for each period shall be submitted to the Council as Planning Authority within a four month period following each 12 month period of monitoring along with details of any mitigation measures required.

Reason: In the interests of nature conservation

SNH (15th October 2012) – in response to the comments made by the RSPB advise that there should be a condition for a Red Throated Diver Habitat Management Plan. Furthermore, that when it comes to drawing up the Habitat Management Plan SNH will discuss the mitigation with the developer including their recommended conditions.

With regard to the Habitat Management Plan SNH would have thought that this could be covered in the Peatland Management Plan. SNH also have no issue with the RSPB being consulted on the CEMP and the Red Throated Diver Habitat Management Plan. As detailed above the changes requested by the RSPB are therefore recommended.

Having looked at the conditions again SNH have realised that there is no condition included for the Protected Aquatic Species that were mentioned in their Confidential Annex. Without such a condition SNH's position would be that of an objection. SNH would like a plan which comes under the CEMP condition (30) with the name 'Fresh Water Protection Plan' with an additional comment stating that 'this will include conditions/mitigation as detailed in SNH's confidential annex dated 23rd July 2010. The condition is therefore recommended to be amended accordingly.

30. Prior to the commencement of construction work a Construction Environmental Management Plan (CEMP), should be submitted to the Council as Planning Authority for consultation with SNH, the Royal Society for the Protection of Birds (RSPB) and SEPA. The CEMP shall include details of all construction-period environmental best-practice mitigation, and shall include a Peatland Management Plan, a Mammal Protection Plan, a Breeding Bird Management Plan, a Habitat Management Plan and a Fresh Water Protection Plan which shall include the conditions/mitigation as detailed in SNH's confidential annex dated 23rd July 2010. The development shall thereafter be implemented in full accordance with the duly approved measures.

Reason In order to protect and avoid disturbance to protected species in the interests of nature conservation.

C. APPLICANT'S COMMENTS ON CONDITIONS

Further changes have been made to the conditions following further discussions between Planning and Regulatory Services, SNH and the applicant. It should be noted that the conditions and reasons detailed in this report represent the most up to date recommendation.

D. NOTE OF ERRATUM

An error has been noticed under Appendix B, Planning Land Use & Policy Assessment, Section D, 4th Paragraph. This paragraph states that "North Ayrshire Council have objected to the proposal on the grounds of adverse landscape and visual impact and the encircling effect of multiple wind farm developments around Arran. As a statutory consultee to the application process, any decision to approve the application in the face of this objection would prompt a requirement for notification to the Scottish Ministers for a decision as to whether they should intervene and 'call-in' the application for their own determination". It should be noted that in accordance with Circular 3/2009: Notification of Planning Applications there is no longer a requirement for Scottish Ministers to be notified in this regard.

E. REVISED RECOMMENDATION - AMENDED CONDITIONS AND REASONS RELATIVE TO APPLICATION: 10/00909/PP

1. Notwithstanding the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997, the wind farm hereby permitted shall be operational within five years from the date of this approval unless otherwise agreed in writing with the Council as Planning Authority, following which, by virtue of there having been no start on the development hereby permitted, this permission will be considered to be no longer extant. Development which has been commenced but which remains uncompleted and has not resulted in an operational wind farm within this five year timescale (or otherwise agreed timescale) shall be removed and the site shall be fully restored in accordance with the Environmental Statement dated May 2010 and as provided for by 'decommissioning' conditions attached to this permission.

Reason: In order to reduce unnecessary blight over wind catchment areas and other potential sites which, cumulatively, may result in an adverse environmental impact, but individually might otherwise receive the benefit of planning permission.

2. This permission shall last for a temporary period of 25 years from the date of commencement of the commercial operation of the wind farm, which shall be notified in writing to the Council as Planning Authority. Within 12 months of the end of that period, unless a further planning application is/has been submitted and approved, all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land reinstated in accordance with the applicant's statement of intentions and 'decommissioning' 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 permission, which is of a temporary nature and in the interests of the visual amenity of the area.

3. The operator shall at all times deal with the areas forming the subject of this approval in accordance with the provisions of the application and Environmental Statement dated May 2010 and Addenda dated: July 2010; October 2010; November 2010 and July 2012 and plans submitted, except as otherwise provided by this approval, and shall omit no significant part of the operations provided for therein except with the prior written approval of the Planning Authority.

Reason: For the avoidance of doubt and in order that the Planning Authority may retain effective control in the interests of wildlife and visual amenity.

4. This permission should not be construed as conferring permission for the working of any of the 5 borrow pit locations referred to in the application and accompanying Environmental Statement (May 2010) the precise nature, extent and working method of which will only be capable of being determined through the submission and determination of 5 separate 'mineral' planning applications yet to be considered.

Reason: For the avoidance of doubt, and having regard to the need for separate mineral planning permissions.

5. Prior to development commencing, details of the turbine model selected for installation on the site and confirmation of the final micro-siting of turbines shall be submitted to the Council as Planning Authority. Prior to the turbines first being brought into use, the developer shall submit to the Council as Planning Authority, location details for each turbine as erected in the form of Global Positioning System co-ordinates.

Reason: In order to demonstrate that the wind farm has been constructed in accordance with the approved plans.

6. If, by reason of any circumstances not foreseen by the applicant, it becomes necessary or expedient during the continuance of the operations hereby approved to materially amend or abandon any of the provisions hereof, the applicant or operator shall forthwith submit to the Planning Authority an amended application, plans and Environmental Statement but shall also adhere to and comply with this planning permission until such time as an amended application has been determined by the Planning Authority.

Reason: In order that the planning permission may be reconsidered should a change of intentions become necessary.

7. If, by reason of any circumstances not foreseen by the applicant or operator, any wind turbine fails to produce an electricity supply to the 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 site restored in accordance

with the agreed scheme, 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 farm site takes place should it fall into disuse.

8. The wind turbines shall be finished in a matt grey white colour (RAL 9002 or RAL 7035), or such other colour as may be agreed in writing with the Planning Authority, and the colour and finish of the wind turbines shall not be altered thereafter without the written permission of the Council as Planning Authority.

Reason: To reduce the impact of the turbines and minimise reflection in the interest of visual amenity.

9. Unless otherwise agreed in writing, in the interests of military air safety, the turbines shall be fitted with aviation lighting. All 10 turbines shall be fitted with infrared lighting at the highest practicable point which shall be maintained in good order and shall not be removed without the written permission of the Council as Planning Authority.

Reason: In the interests of air safety.

10. There shall be no illumination other than the 'aviation lighting' specified in condition 9 above of the wind turbines hereby permitted, nor shall any symbols, signs, logos, or other lettering be applied to the turbines without the prior approval of the Planning Authority.

Reason: To protect the rural character of the area in the interests of visual amenity.

11. Before the cessation of the planning permission, a decommissioning plan shall be submitted for the written approval of the Council as Planning Authority in consultation with Scottish Natural Heritage. Within 12 months of the planning permission lapsing, unless any further permission has been granted for their retention for an additional period, the wind turbines and all ancillary structures shall be removed, and the turbine bases and adjoining hard standings covered in soil/peat and re-seeded with appropriate vegetation in accordance with the requirements of the approved plan.

Reason: To ensure that disturbed areas of the site are reinstated in a proper manner in the interests of amenity.

12. All wires and cables between the wind turbines and sub-station shall be located underground within the access track verges or within three metres of the access tracks unless otherwise agreed in writing with the Planning Authority, and the ground thereafter shall be reinstated to a condition equivalent to the land adjoining the trenches within two months of completion of cable laying to the satisfaction of the Planning Authority.

Reason: In the interests of visual amenity and nature conservation.

13. Within six months of the wind farm becoming fully operational, all temporary site offices, containers, machinery and equipment shall be removed, and the materials storage compound/laydown area shall be fully restored in accordance with a scheme detailing vegetation replacement

techniques and timing, which shall be submitted to and approved in advance by the Council as Planning Authority unless otherwise agreed in writing with the Council as Planning Authority.

Reason: In order to secure appropriate reinstatement of those areas disturbed by construction in the interests of amenity.

14. No development shall be commenced until a Construction Method Statement (CMS) has been submitted to and agreed by the Council as Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage. This should address all aspects of the construction process which might impact on the environment, including in particular, excavations and other earthworks, a management/reinstatement scheme for peat areas, the construction works associated with upgraded watercourse crossings, the management of waste streams, the timing of works to avoid periods of high rainfall; along with monitoring proposals, contingency plans and reinstatement measures. The development shall be implemented in accordance with the provisions of the duly approved CMS or any subsequently agreed variation thereof.

Reason: In the interests of pollution control and protection of the water environment.

15. Prior to the commencement of development, full details of the drainage proposals for the site, including foul drainage arrangements for the control building, and drainage for the vehicle accesses, storage areas and compounds, together with the provisions for the avoidance of sedimentation and pollution from construction works and the storage and use of oils and other potential pollutants, and measures for the monitoring and mitigation of erosion, shall be submitted for the approval of the Council as Planning Authority in consultation with the Scottish Environment Protection Agency. The development shall be implemented in accordance with the duly approved details

Reason: In order to prevent pollution of the water environment.

16. Prior to the commencement of development, full details of a Restoration Method Statement and Restoration Monitoring Plan shall be submitted for the approval of the Council as Planning Authority, in consultation with Scottish Natural Heritage. The restoration method statement shall provide restoration proposals for those areas disturbed by construction works, including access tracks, hardstandings and other construction areas. Restoration of construction disturbed areas shall be implemented within 6 months of the commissioning of the wind farm, or as otherwise agreed in writing with the Council as Planning Authority. The monitoring programme shall include a programme of visits to monitor initial vegetation establishment and responses to further requirements, and long term monitoring as part of regular wind farm maintenance.

Reason: To ensure that disturbed areas of the site are reinstated in a proper manner following construction in the interests of amenity, landscape character and nature conservation.

17. The control building shall be faced in natural stone/smooth cement or wet

dash render painted a recessive colour (or other natural/recessive finish as agreed in writing by the Planning Authority) with the roof pitch amended to between 35 - 38 degrees, finished in natural slate or a good quality slate substitute, samples, full details and amended drawings of which shall be submitted for the prior written approval of the Planning Authority prior to building works commencing. The development shall be implemented in accordance with the duly approved details.

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

18. Prior to the commencement of development, details of materials, external finishes and colours for all ancillary elements, including transformers, switchgear/metering building, compound and fencing shall be submitted to and approved by the Council as Planning Authority. The development shall be implemented in accordance with the duly approved details.

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

19. Details of the bird monitoring programme for the years of operation 1 to 5 inclusive and year 10 shall be submitted to, and be approved in writing by, the Planning Authority, in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds prior to the commencement of development. Thereafter monitoring results for each period shall be submitted to the Council as Planning Authority within a four month period following each 12 month period of monitoring along with details of any mitigation measures required.

Reason: In the interests of nature conservation.

20. At the request of the Council, following a complaint to the Council relating to noise emissions from the wind turbines, the developer shall undertake an investigation of the complaint, carry out monitoring, prepare and submit a report upon the problem and advise of any necessary remedial action in accordance with the methodology set out in the report entitled "The Assessment and Rating of Noise from Wind Farms ETSU-R-97" produced by the Energy Technology Support Unit on behalf of the Department of Trade and Industry and take any such remedial action agreed to the satisfaction of the Council as Planning Authority.

Reason: To help to control and therefore, minimise possible noise pollution

21. Prior to the commencement of the construction of the development, the Developer should agree with the Council as Planning Authority the working methods and operating times to be employed during the constructional phase, in order to prevent the occurrence of or minimise the effect of any nuisances. Thereafter the development shall be implemented in accordance with the duly approved details unless any subsequent variation thereof is agreed in advance in writing by the Council as Planning Authority.

Reason: To help to control and therefore, minimise possible noise pollution.

22. The level of wind turbine noise from the site shall not exceed 35dB L_{A90}

when measured at any residential property in accordance with the methodology of ETSU-R-97.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

23. Prior to the commencement of the development hereby permitted, the applicant shall provide warranty to the satisfaction of the Council as Planning Authority that the noise from turbine operation will be broad-band with no discernable tonal characteristics.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

24. No development shall be commenced until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the developer, agreed by the West of Scotland Archaeology Service and approved in writing by the Council as Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details unless any subsequent variation thereof is agreed in advance in writing by the Council as Planning Authority.

Reason: To enable the opportunity to identify and examine any items of archaeological interest which may be found on the site, and to allow any action required for the protection, preservation or recording of such remains.

25. Prior to the development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

26. Prior to commencement of deliveries to site a Route Access Report Including swept path analysis to ensure that abnormal loads can be transported through the trunk road network safely must be undertaken and submitted for the further written approval of the Planning Authority in

consultation with Transport Scotland. The complete report shall detail any accommodation measures Required including the temporary removal of street furniture, junction widening, traffic management and show that the transportation will not have any detrimental effect on structures within the route path.

Reason: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.

27. During the delivery period of the wind turbine construction materials any additional signing or temporary traffic measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, and submitted prior to the commencement of deliveries to the site for the written approval of the Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the transportation will not have any detrimental effect on The road and structures along the route.

28. No development shall commence until the means of access to the site between the A83 and the application site boundary has been approved in accordance with the provisions of planning permission references: 12/00859/PP; 12/00860/PP; 12/00861/PP; 12/00862/PP; 12/00863/PP; and 12/01338/PP and the conditions attached thereto.

Reason: In the interests of road safety.

29. Throughout the construction and commissioning stages of the development, and during decommissioning, an appropriately qualified 'Ecological Clerk of Works' shall be available to: protect the freshwater environment; direct the micro-siting of turbines, bridges, compounds and access tracks, to ensure that sensitive features are avoided, and that habitat enhancement works and all mitigation and restoration measures are fully implemented. The ECOW should liaise with Scottish Natural Heritage and the role of the ECOW should be clearly conveyed to all personnel prior to their commencement of work on the site.

Reason: In the interests of nature conservation.

30. Prior to the commencement of construction work a Construction Environmental Management Plan (CEMP), should be submitted to the Council as Planning Authority for consultation with SNH, the Royal Society for the Protection of Birds (RSPB) and SEPA. The CEMP shall include details of all construction-period environmental best-practice mitigation, and shall include a Peat Management Plan, a Mammal Protection Plan, a Breeding Bird Management Plan and a Fresh Water Protection Plan which shall include the conditions/mitigation as detailed in SNH's confidential annex dated 23rd July 2010. The development shall thereafter be implemented in full accordance with the duly approved

measures.

Reason: In order to protect and avoid disturbance to protected species in the interests of nature conservation.

31. Prior to wind farm commissioning, a Habitat Management Plan shall be developed and shall be submitted and be approved in writing by the Council as Planning Authority in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds. The plan shall be implemented for the full duration of the operational phase of the development, in accordance with the duly approved measures, and in order to address any significant adverse effect on red-throated diver that may occur to deliver ecological enhancement for black grouse, and to yield net ecological gain as a result of the development.

Reason: In the interests of nature conservation.

32. Prior to the commencement of development, a pre-construction fish and habitat survey including all species of fish, exact details and specifications of all stream crossings and details of a programme for monitoring wild fish populations in the Narrachan and Ballochroy Burns for the years of operation 1 to 5 inclusive shall be submitted and approved in writing by the Council as Planning Authority, in consultation with Scottish Natural Heritage and the Argyll District Salmon Fishery Board. Thereafter monitoring results for each period shall be submitted to the Council as Planning Authority within a four month period following each 12 month period of monitoring along with details of any mitigation measures required.

Reason: In the interests of nature conservation

33. Prior to the commencement of construction work, full details of a buffer to be provided around the Talatoll, shielings scheduled ancient monument shall be submitted for the further written approval of the Planning Authority. The duly approved measures shall be implemented prior to works commencing and shall be retained in place for the full duration of construction operations on the site.

Reason: In the interests of safeguarding the historic environment

34. Prior to the commencement of turbine tower erection, a baseline TV reception study shall be undertaken and submitted to the Council as Planning Authority. Within 12 months of the final commissioning of the wind farm, any claim by any person for TV picture loss or interference at their household, office, shop or other building shall be investigated by a qualified television engineer and the results submitted to the Council as Planning Authority. Should any impairment to the TV reception be

attributable to the wind farm, such impairment shall be improved to an acceptable standard of TV reception, such that the standard at the household, office, shop or other building at the time of the baseline reception study is maintained

Reason: In order to avoid interference with television reception as a result of the operation of the wind farm.

Author of Report: Arlene Knox

Date: 16.10.12

Reviewing Officer: Angus Gilmour

Date: 16.10.12

Angus Gilmour

Head of Planning and Regulatory Services