

ARGYLL AND BUTE COUNCIL

PPSL COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

19 MARCH 2025

UPDATE ON RECENT SCOTTISH MINISTERS SECTION 36 EARRAGHAIL RENEWABLE ENERGY DEVELOPMENT DECISION

OUR REFERENCE: 22/00445/S36

ECU REFERENCE: ECU00003421

DPEA REFERENCE: WIN-130-8

CASE DETAIL: PROPOSED RENEWABLE ENERGY DEVELOPMENT COMPRISING 13 ONSHORE WIND TURBINES WITH A GENERATING CAPACITY OF AROUND 78MW, SOLAR PHOTOVOLTAIC ARRAY AROUND 5MW AND BATTERY STORAGE TECHNOLOGIES AROUND 25MW

SITE ADDRESS: EARRAGHAIL RENEWABLE ENERGY DEVELOPMENT – LOCATED ON THE KINTYRE PENINSULA, BETWEEN THE VILLAGE OF TARBERT TO THE NORTHEAST AND THE VILLAGE OF SKIPNESS TO THE SOUTH

APPLICANT: SCOTTISHPOWER RENEWABLES (UK)

STATUS: REFUSED BY SCOTTISH MINISTERS ON 14th FEBRUARY 2025

1. INTRODUCTION

- 1.1 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 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 if authorisation is given by the Scottish Government.
- 1.2 Argyll & Bute Council objected to this application, consequently, a Public Inquiry was required to be held. The Inquiry, which Officers participated in was conducted by a Reporter(s) appointed by the Directorate for Planning and Environmental Appeals (landscape and visual impact inquiry session 5-7 March 2024 - community hearing session 12 March 2024 - policy and conditions hearing sessions 14 March 2024)
- 1.3 This report summarises the decision made by Scottish Ministers to REFUSE Section 36 consent and deemed planning permission for the Earraghail Renewable Energy Development.

2. RECOMMENDATION

- 2.1 Members are asked to note the contents of the report.

3. REPORTERS CONCLUSIONS AND RECOMMENDATION TO SCOTTISH MINISTERS

Reporter's Conclusions

3.1 In balancing the factors for and against the proposal, the Reporters recognise the nationally significant contribution that the proposal would make towards meeting Scotland's climate change objectives and emission reduction targets. They also recognise its significant adverse environmental effects, in particular the significant adverse landscape and visual impacts that would arise in relation to North Arran National Scenic Area. These are summarised below.

- There would be significant and adverse visual impacts at a variety of locations within the North Arran National Scenic Area.
- Those visual impacts would result in significant and adverse effects on two ('distinctive coastline' and 'outdoor recreation') of the special qualities for which the area has been designated.
- The significant and adverse impact on the distinctive coastline special quality relates to ways in which it is expressed on the north coast between Millstone Point and Lochranza, and on the west coast between Lochranza and Catacol.
- The significant impact on the outdoor recreation special quality relates to how they are expressed on those same stretches of coastline, and at locations within the western hills (including Beinn Bhreac and its approach route from Thundergay) and the northern mountains (including Caisteal Abhail and upper Gleann Easan Biorach).
- The significant impacts on these special qualities would be such that the objectives of designation and the overall integrity of the area would be compromised.
- The daytime visual effects of the proposed development would themselves be sufficient to result in the significant adverse effects which we have identified for the special qualities, and their compromising effect on the objective of designation and overall integrity of the area.
- If an aviation detection lighting system could not be successfully deployed, the daytime effects would additionally occur at twilight and nighttime.

3.2 The proposed development would also have unacceptable impacts on the primary surveillance radars of NATS and Glasgow Prestwick Airport, and air traffic services that they currently provide in airspace in the vicinity of the proposed wind turbines, if appropriate mitigations, as sought through the relevant conditions in Appendix 1, could not be secured.

3.3 The proposed development would have other effects that we have assessed as being contrary to other provisions in the relevant local and national development plan policies, when considered individually. These include:

- significant adverse effects on the integrity of South Cowal Local Landscape Area and on the qualities for which it has been identified, arising from significant and adverse visual impacts at locations along the coastline from Portavadie to Ardlamont Point;
 - significant landscape and visual effects in other parts of Argyll and Bute including on the Kintyre Way between Tarbert and Skipness, and for people on outer Loch Fyne and the Kilbrannan Sound (for example ferry users and kayakers);
 - local level effects on golden eagles; and
 - some loss of ancient woodland and other semi-natural broadleaved woodland.
- 3.4 The proposed development would have other merits which would be supported by other provisions in relevant development plan policies, when considered individually. These include:
- biodiversity enhancements, in particular the restoration of degraded peatland and heathland;
 - local and national economic and employment benefits; and
 - a new circular walking route, bothy, viewpoint and stone seating along section one of the Kintyre Way.
- 3.5 All of the adverse impacts the Reporters have identified and summarised above, with the sole exception of that on the North Arran National Scenic Area, are outweighed when considerable weight is given to the proposed development's contribution to renewable energy and net zero targets. However, they do not consider that this impact on North Arran National Scenic Area is similarly outweighed.
- 3.6 Informed by their findings above, they find the proposal overall to be contrary to the development plan and the Onshore Wind Policy Statement. They find that there are no other relevant considerations which lead them to make a recommendation contrary to policy.
- 3.7 Accordingly, they recommend that consent should be refused.

Reporters Recommendation to Scottish Ministers

- 3.8 Consent should not be granted under section 36 of the Electricity Act 1989, nor deemed consent under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended). If Ministers disagree with this recommendation and are minded to grant consent, this should be subject to the conditions listed in Appendix 1. Consent may not be granted prior to the satisfactory completion of an appropriate assessment in relation to the effects of the proposal on the western acidic oak woodlands feature of the Tarbert Woods Special Area of Conservation.

4.0 The Scottish Ministers' Conclusions

Conclusions on the Environment

- 4.1 The Scottish Ministers are satisfied that the EIA Report, its AI 2023 and AEI November 2023 have been produced in accordance with the EIA Regulations, and that the

relevant procedures regarding publicity and consultation laid down in those Regulations have been followed.

- 4.2 The Scottish Ministers have fully considered the EIA Report, AI 2023, AEI November 2023, the consultation responses, representations, the findings, conclusions, and recommendation of the PI Report and are satisfied that the environmental impacts of the proposed Development have been sufficiently assessed. The Scottish Ministers have taken the environmental information into account when reaching their decision.
- 4.3 Taking the above assessment into account the Scottish Ministers consider that the proposed Development would have significant adverse landscape and visual impacts on the SQs of North Arran NSA that go beyond localised, which cannot be mitigated. There are also significant impacts on the SQs of the North Arran NSA as a consequence of the proposed Development's aviation lighting which are not mitigated by the currently proposed aviation lighting scheme.
- 4.4 The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion addresses the likely significant effects of the proposed Development on the environment. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

The Scottish Ministers Determination

- 4.5 As set out above, the seriousness of climate change, its potential effects, and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. Scotland's renewable energy and climate change targets, energy policies and planning policies are all relevant considerations when weighing up the proposed Development. NPF4, Scotland's Energy Strategy and the OWPS make it clear that renewable energy deployment remains a priority of the Scottish Government. These are all matters which should be afforded significant weight in favour of the proposed Development.
- 4.6 The Scottish Ministers consider that the proposed Development, if deployed, would create net economic benefits, and deliver renewable energy benefits that would contribute to supporting climate change mitigation and are wholly in accordance with Scottish Government's climate change ambitions. In these respects, the proposed Development would contribute to sustainable development, and this has been considered when reaching a decision. These benefits, however, must be considered carefully in the context of the negative impacts on the natural environment and whether, on balance, they are acceptable.
- 4.7 The Scottish Ministers acknowledge, in accordance with both NPF4 and the OWPS, that meeting our climate ambitions will require a rapid transformation across all sectors of our economy and society, however this does not negate the continuing requirement to ensure that the right development happens in the right place.
- 4.8 The Scottish Ministers have considered the Application, the EIA Report, AI 2023, AEI November 2023, consultation responses and public representations alongside the Reporters' considerations and subsequent conclusions. Their conclusion is that the proposed Development would provide net economic benefits and renewable energy benefits. However, on balance, these benefits would not outweigh the significant adverse effects by day and night on the North Arran NSA. The Scottish Ministers do not consider that the social, environmental, or economic benefits of the proposed Development can be construed as significant or nationally important to the extent that

they clearly outweigh the significant adverse effects on the SQs for which the North Arran NSA has been designated.

- 4.9 Ultimately, this leads the Scottish Ministers to the conclusion that despite the many factors in favour of the proposed Development, this is not the right Development in the right place and the proposed Development is therefore not acceptable overall.
- 4.10 The Scottish Ministers therefore consider the Application for consent under Section 36 of the Electricity Act 1989 for the construction and operation of Earraghail Wind Farm, within the planning authority area of Argyll & Bute Council, should be refused
- 4.11 The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent.
- 4.12 The Reporters Inquiry Report and Scottish Ministers decision can be viewed on the DPEA (Directorate of Planning Environmental Appeals) website at the following link:

[Scottish Government - DPEA - Case Details](#)

5.0 IMPLICATIONS

Policy: None.

Financial: None.

Legal: None

HR: None

Fairer Scotland Duty: None

Equalities – Protected Characteristics: None

Socio-economic Duty: None

Islands: None

Climate Change: None – the proposal has been refused.

Risk: None

Customer Service: None

The Rights of the Child (UNCRC): None

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Fergus Murray

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