

**REGULATORY PANEL.**

Minutes of meeting in County Buildings, Wellington Square, Ayr,  
on 2nd March 2016 at 10.00 a.m.

Present: Councillors Peter Convery (Chair), Ian Cavana, Ian Douglas, Ann Galbraith, Sandra Goldie, William J. Grant and Hugh Hunter.

Apology: Councillor Andy Campbell.

Attending: For Items 1 to 4:-

C. Cox, Planning Manager; A. Brown, Co-ordinator (Legal Services, Property and Contracts); A. Browne, Supervisory Planner, J. Esslemont, Strategic Planner; and A. Gibson, Committee Services Officer.

For Items 5 to 7:-

M. Douglas, Team Leader (Licensing); A. Gibson Committee Services Officer; and Inspector W. Ramsay and Sergeant G. Griffiths, Police Scotland.

**1. Declarations of Interest.**

There were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

**2. Minutes of previous meeting.**

The Minutes of [27th January 2016](#) (Special) and [4th February 2016](#) were submitted and approved.

**3. Application to construct and operate under Section 36 of the Electricity Act 1989 and the Electricity Works (Environmental Impact Assessment) (Scotland) regulations the proposed Chirmorie Wind Farm, South of Barrhill, South Ayrshire: 15/01385/DEEM.**

There were submitted a [report](#) (issued) of February 2016 by the Executive Director – Economy, Neighbourhood and Environment advising

- (1) that South Ayrshire Council had been consulted by the Scottish Government, under section 36 of the Electricity Act 1989, on an application by "Chirmorie Wind Farm Limited" for the erection of a windfarm and associated ancillary development at Chirmorie, south of Barrhill, South Ayrshire;

- (2) that this Council was not the determining authority for this proposal;
- (3) that the comments within this report had a focus on the impacts of the proposal within the administrative boundary of South Ayrshire Council; and
- (4) that the entire development was proposed to be located within South Ayrshire, however the proposal had cross boundary implications with Dumfries and Galloway.

**Decided:** to agree that this Council submit an objection to the Scottish Government on the following grounds (a) to (c) below, and that comments (d) to (h) below are submitted to Scottish Government:-

- (a) ***Residential amenity***  
That the proposed development is contrary to LDP Policy, Wind Energy Criterion c), LDP policy Sustainable Development, LDP policy Air, Noise and Light Pollution and Scottish Planning Policy by reason that the applicant has not demonstrated that the development would not result in unacceptable cumulative noise and visual impacts on residential amenity;
- (b) ***Natural Heritage***  
That the proposed development is contrary to LDP Policy Sustainable Development, LDP Policy Water Environment and Scottish Planning Policy by reason that the applicant has not demonstrated that the development would not result in significant effects on Groundwater Dependent Terrestrial Ecosystems (GWDTEs);
- (c) ***Carbon Rich Soils***  
That the proposed development is contrary to LDP Policy Wind Energy Criterion d), LDP Policy Natural Heritage, LDP Policy Sustainable Development, LDP policy Water Environment and Scottish Planning Policy by reason that the applicant has not demonstrated that the development would not have significant effects on carbon rich soils, deep peat and priority peatland habitats;
- (d) ***Traffic and Transportation***  
That the Scottish Government be requested to consider the benefits and mitigation of alternative means of access to the site, relative to residential amenity and roads infrastructure, particularly with regard to the impacts and potential disruption to residents of Barrhill;
- (e) ***Visual and landscape***  
That the Scottish Government be requested to consider the benefits and mitigation of landscape and visual impacts that may be afforded by the removal of turbines closest to the Chirmorie Cairn, a locally prominent landscape feature. Turbines are assumed to be number 15, 19, 16 and 20;

- (f) ***Built, Cultural and Archaeological Resources***  
That South Ayrshire Council wishes to reserve its position on matters of built, Cultural and Archaeological Heritage pending the submission of the consultation response of the West of Scotland Archaeological Service;
- (g) ***Borrow Pits***  
That the Scottish Government request the applicant to demonstrate the relative benefits of creating borrow pits on site, compared to the benefits associated with importing materials from existing local quarries; and
- (h) ***Conditions***  
That should the Scottish Government be minded to grant this application, South Ayrshire Council requests that it be consulted on proposed conditions prior to the grant of consent.

#### 4. **Application for Planning Permission.**

There were submitted a [report](#) (issued) of February 2016 by the Executive Director – Economy, Neighbourhood and Environment on a current application for determination.

The Panel decided as follows:-

**15/01646/APPM – MAYBOLE – Proposed Wind Farm – U62 from C29 at Wallacetown - north-west to Hallowshean Cottage** – Erection of 8 wind turbines, associated infrastructure and formation of associated access track.

**Decided:** to refuse the application on the following grounds:-

##### **Landscape and Visual**

- (1) that the proposed development would be contrary to South Ayrshire Local Development Plan policies 'wind energy' and 'landscape quality' and South Ayrshire Council Supplementary Guidance on Wind Energy. It is considered that due to the scale, prominent position, its impact on the skyline, its impact on landmark hills, the wider visibility of the turbines and the absence of any appropriate mitigating landscape factors, that the proposed development cannot be accommodated in the landscape in a manner which respects its main features and character and will have a significant adverse landscape and visual impact. Furthermore it is considered that the proposal will have a detrimental visual impact, taking into account views experienced from surrounding residential properties, public roads and paths, significant public viewpoints and important recreational assets and tourist attractions. There is no over-riding reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy;

##### **Aviation**

- (2) that the proposed development would be contrary to South Ayrshire Local Development Plan policy 'wind energy' and South Ayrshire Council Supplementary Guidance on Wind Energy in that, in the absence of an agreed mitigation solution, it will adversely affect aviation interests. There is no over-riding reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy;

**Cumulative**

- (3) that the proposed development would be contrary to South Ayrshire Local Development Plan policies 'wind energy' and 'Protecting the landscape' and South Ayrshire Council Supplementary Guidance on Wind Energy in that, when considered in combination with other existing and approved wind energy developments, and those for which applications for approval have already been submitted that the impacts would not be acceptable. Furthermore, there would be a significant adverse impact on the Scenic Area, particularly landscape and visual effects. There is no over-riding reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy; and

**Historic Environment**

- (4) that the proposed development would be contrary to South Ayrshire Local Development Plan policy 'Historic environment' and South Ayrshire Council Supplementary Guidance on Wind Energy on the grounds that it would have significant indirect effects on the setting of heritage assets in the area: Hollowshean Camp (scheduled ancient monument), East Threave Burial Cairn and Kirk Hill enclosure. There is no over-riding reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

**List of Determined Plans:**

- Other - Reference No (or Description): Pre Application Consultation Report;  
 Other - Reference No (or Description): Design and Access Statement;  
 Other - Reference No (or Description): Environmental Statement, figures, visualisations and updates;  
 Other - Reference No (or Description): Figure 1.1 Location Plan;  
 Other - Reference No (or Description): Figure 1.2 Application Boundary;  
 Other - Reference No (or Description): Figure 2.1 Turbine Development Layout; and  
 Other - Reference No (or Description): Planning Statement.

**At this point, the time being 10.55 a.m., it was noted that the Panel would resume at 11.00 a.m.**

**5. Resumption of Meeting.**

The meeting resumed at 11.00 a.m.

**6. Declarations of Interest.**

There were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

7. **Minutes of previous meetings.**

The minutes of [21st January 2016](#) (issued) were submitted and approved.

8. **Civic Government (Scotland) Act 1982 - Licences.**

**Taxi Driver.**

The Panel heard an observation from Police Scotland who also referred to convictions regarded as 'protected' in terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amended Order 2015 and requested that the Panel consider these convictions. Following discussion the Panel agreed to consider these convictions as it accepted that justice could not be done except by having full information before it and, thereafter, it was agreed to consider a written copy.

The Police letter outlining the 'protected' convictions was then circulated and the Panel heard from Police Scotland in relation to this and from the applicant, Steven William Dunn, in response.

Councillor Galbraith, seconded by Councillor Grant, moved that the application be approved for one year, subject to standard conditions as previously agreed.

By way of an Amendment, Councillor Douglas, seconded by Councillor Goldie moved that the application be approved for three years, subject to standard conditions as previously agreed.

By way of Counter-Amendment, Councillor Hunter moved that the application be refused, but failed to find a seconder and subsequently his Counter-Amendment fell.

On a vote being taken by a show of hands, two Members voted for the Amendment and four for the Motion, which was accordingly declared to be carried.

**Decided:** Councillor Hunter dissenting, to approve this application for one year, subject to standard conditions as previously agreed.

The meeting ended at 11.20 a.m.