

**Local Review Body
30 October 2019**

Irvine, 30 October 2019 - At a Meeting of the Local Review Body of North Ayrshire Council at 10.30 a.m.

Present

Tom Marshall, Timothy Billings, Robert Barr, Robert Foster, Christina Larsen, Ellen McMaster, Ronnie McNicol and Donald Reid.

In Attendance

I. Davies, Planning Adviser to the LRB (Place); J. Law, Legal Adviser to the LRB (Legal Services); A. Hume, Senior Development Management Officer and H. Clancy, Committee Services Officer (Chief Executive's Service).

Also In Attendance

A. Wilson, G. McGuinness, N. Maccallum and S. Wilson (Radio City Association); G. Walker and C. Harry (Scottish Natural Heritage); S. Simpson, J. Low and N. Willis (Save Your Regional Park Campaign).

Chair

Councillor Marshall in the Chair.

Apologies for Absence

Ian Clarkson

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the meeting of the Local Review Body held on 02 October 2019 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Hearing Session

3.1 Notice of Review: 18/01123/PP – Site to North of Standingstone Hill, Kilbirnie

Submitted a report by the Head of Service (Democratic Services) on a Notice of Review submitted by the applicant in respect of a planning application refused by officers under delegated powers for the erection of a 2.5MW wind turbine measuring 110m to blade tip and 65m to hub, to include associated earthworks and infrastructure at the site to the north of Standingstone Hill, Kilbirnie.

At its meeting on 4 September 2019, the Local Review Body agreed (a) to continue consideration of the Notice of Review to a future meeting for a hearing to be conducted in terms of the Hearing Session Rules set out in Schedule 1 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, to consider the application for review and hear from the parties on specified matters; (b) that the following parties are invited to attend and address the hearing, after submission of a hearing statement, on the following specified matters (i) material considerations - the applicant/applicant's representative, any interested parties who made representations, and officers of the Council's Planning Service (ii) location of application site in regional park and wild land assessment - the applicant/applicant's representative, any interested parties who made representations, and officers of the Council's Planning Service (iii) air traffic control matters – the applicant/applicant's representative, Glasgow Airport, and officers of the Council's Planning Service; (c) to undertake a site visit before the review hearing is considered; and (d) undertake all necessary notifications and any further procedure in terms of the said Rules.

In accordance with the hearing procedure and rules, the applicant, an officer of the Council's Planning Service, representatives from Scottish Natural Heritage, representatives from Glasgow Airport and representatives from Save Your Regional Park Campaign were invited to attend the Hearing Session and to submit a Hearing Statement and supporting documentation in advance of the session.

The Legal Adviser set out the background to the Hearing and advised those present of the procedures for conducting the Hearing.

The Planning Adviser advised the Local Review Body of the background to the application. The Planning Adviser also read out the Hearing Statement from Glasgow Airport who were unable to attend the hearing.

Representatives from Radio City Association, Scottish Natural Heritage, Save Your Regional Park Campaign and the Council's Planning Service then addressed the Local Review Body.

Members asked questions and were provided with further information on:

- suitability of the proposed site and if other sites were considered;
- Glasgow Airport objection and the conditions they requested be imposed;
- classification of the Wild Land Area and the impact on the classification if planning permission was granted;
- plans for current track at the site location if planning permission was granted;
- objector's knowledge of the site location and the wildlife;
- creation of jobs;
- Forestry Commission planting project at Halkhill and Blairpark Forest; and
- the role of the Scottish Natural Heritage National Interest Panel when a proposal is considered to raise issues of national interest.

The Local Review Body unanimously agreed that enough information had been provided to determine the review request subject to conditions.

Councillor Barr seconded by Councillor McMaster, moved that the Local Review Body uphold the appeal and grant planning permission.

As an amendment, Councillor Billings, seconded by Councillor McNicol, moved that the Local Review Body uphold the officer's decision and refuse planning permission.

On a division there voted for the amendment three and for the motion five, and the motion was declared carried.

Accordingly, the Local Review Body agreed to uphold the appeal and grant planning permission on the basis that the material considerations outweigh planning policy, subject to the following conditions:

Phasing plan

1. Prior to the commencement of the development a phasing plan, including the start and end dates for construction, the maximum height of construction equipment and the exact latitude and longitude of the turbine, shall be submitted to the Council, as Planning Authority, for written approval, in consultation with the Ministry of Defence. The development will not commence until such details are approved and thereafter be carried out in accordance with the approved details.

Reason: In order to ensure an appropriate timescale for the development and at the specific request of the Ministry of Defence.

Details relating to proposed track

2. Notwithstanding the details on any approved drawings, prior to the commencement of any development the applicant shall submit to the Council, as Planning Authority, for written approval, details of the proposed access track and hardstanding. Details shall include:

- i) method of construction and where an existing track is to be used, details of any widening or other improvement works proposed;
- ii) details of where any materials for improvement/construction works will be taken from;
- iii) details of remediation measures to the track, hardstanding and any 'borrow pits' for material following erection of the turbine, including a timescale for any remediation measures.

The development shall not commence until such details are approved and thereafter be carried out in accordance with the approved details.

Reason: In recognition of the difference between the submitted proposed track route and the unauthorised existing track to the north of the former Pundeavon Reservoir. To ensure appropriate mitigation measures to lessen any visual impact from the track and hardstanding following completion of the development.

Archaeological watching brief;

3. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved in writing by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: In recognition of the archaeological interest of the area and potential interest within the development site.

Glasgow Airport Safeguarding

4. That prior to the commencement of development, a Radar Mitigation Scheme setting out measures to be taken to prevent the impairment of the performance of aerodrome navigation aids and the efficiency of air traffic control services at Glasgow Airport must be submitted to, and approved in writing by the Council, as Planning Authority, in consultation with Glasgow Airport Limited.

Reason: In the interests of aviation safety

5. The turbines must be erected in accordance with the approved Radar Mitigation Scheme

Reason: In the interests of aviation safety

6. The development must be operated at all times fully in accordance with the approved Radar Mitigation Scheme.

Reason: In the interests of aviation safety

Ecological

7. An Ecological Clerk of Works (ECoW) shall be appointed and funded by the developer and the details of this appointment shall be submitted to and approved in writing by the Council, as Planning Authority, prior to commencement of the development. The ECoW will be present to supervise the installation of suitable surface water management drainage designs and silt prevention mitigation measures. The ECoW will also monitor the effectiveness of measures installed including the mitigation measures as may be approved under Condition 2. The ECoW will have the authority to stop works as necessary.

Reason: To ensure oversight of any drainage and visual mitigation works in recognition of the special circumstances of the site and the details set out in the Preliminary Ecological Appraisal Report, by Arcus dated December 2018 and submitted as part of this application.

8. Prior to commencement, a further survey, to be dated not earlier than 6 months prior to the proposed commencement date, shall be undertaken of the site and watercourses within 250m to assess the presence of otters and/or water voles. The survey shall be undertaken by a suitably qualified professional and in accordance with SNH guidance. Where the survey identifies the presence of protected species, mitigation measures to ensure no unacceptable adverse impact on the species or their habitats shall be provided. The findings of the survey shall be submitted to the Council, as Planning Authority, and approved in writing prior to commencement of the development. The development will thereafter be carried out in accordance with any details approved. If the works do not commence within 6 months of the date of any agreed survey, a further survey shall be carried out and submitted to the Council, as Planning Authority, for approval as above.

Reason: To ensure up-to-date information in respect of protected species and their habitats potentially within proximity of the site and in recognition of the details set out in the Preliminary Ecological Appraisal Report, by Arcus dated December 2018 and submitted as part of this application

Restoration

9. That, if the turbine ceases to be operational for a continuous period of 6 months, all its above ground elements, foundations down to one metre below ground level and any hardstanding shall be removed and the ground re-instated, within a period of not more than 6 months after the expiry of the 6 month period referred to above.

Reason: To ensure that the turbine is removed promptly should it become redundant and to protect the visual amenity of the area.

Noise

10. The proposed wind turbine noise emission level, when assessed at nearby noise sensitive premises, shall not exceed 35dB(A)LA90,10min at all wind speeds up to and including 10 ms⁻¹ when measured at 10m above ground level. In the case where the wind speed is measured at a height other than 10m, the wind speed data shall be standardised to 10m. The operation of the wind turbine shall not result in any audible tones at any noise sensitive premises.

Reason: To mitigate any noise disturbance from the turbine at noise sensitive properties

11. At the reasonable request of the Planning Authority/Environmental Health Service or following a valid complaint to the Planning Authority/Environmental Health Service relating to noise emission arising from the operation of the wind turbine, the operator shall measure the level of noise emission from the wind turbine at the property to which the complaint relates in line with a methodology agreed by the Planning Authority/Environmental Health Service.

Reason: To ensure any potential noise disturbance can be properly monitored

The Meeting ended at 12.15 p.m.