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Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

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21 May 2024

SUPPLEMENTARY PACK 2

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - BY MICROSOFT TEAMS on WEDNESDAY, 22 MAY 2024 at 11:00 AM

I enclose herewith supplementary reports for **items 4 and 8** on the Agenda for the above meeting.

Douglas Hendry
Executive Director

SUPPLEMENTARY REPORTS

- 4. TORLOISK ESTATE: CONVERSION AND EXTENSION OF STONE BARN TO FORM DWELLINGHOUSE, INSTALLATION OF SEPTIC TANK AND FORMATION OF VEHICULAR ACCESS: LAND WEST OF LAGGANULVA FARM, ULVA FERRY, ISLE OF MULL (REF: 23/00185/PP) (Pages 3 - 12)**

Report by Head of Development and Economic Growth

- 8. THE SCOTTISH GOVERNMENT ON BEHALF OF ENERGIEKONTOR UK LTD: ELECTRICITY ACT SECTION 36 CONSULTATION RELEVANT TO BREACKERIE WIND FARM: LAND APPROXIMATELY 8KM SOUTH WEST OF CAMPBELTOWN (REF: 23/02230/S36) (Pages 13 - 16)**

Report by Head of Development and Economic Growth

Planning, Protective Services and Licensing Committee

Councillor John Armour
Councillor Jan Brown
Councillor Kieron Green (Chair)
Councillor Daniel Hampsey
Councillor Fiona Howard
Councillor Andrew Kain
Councillor Liz McCabe
Councillor Peter Wallace

Councillor Gordon Blair (Vice-Chair)
Councillor Audrey Forrest
Councillor Amanda Hampsey
Councillor Graham Hardie
Councillor Mark Irvine
Councillor Paul Donald Kennedy
Councillor Dougie Philand

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Argyll and Bute Council
Development & Economic Growth

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 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 23/00185/PP
Planning Hierarchy: Local Development
Applicant: Torloisk Estate
Proposal: Conversion and extension of stone barn to form dwellinghouse, installation of septic tank and formation of vehicular access
Site Address: Land West Of Lagganulva Farm, Ulva Ferry, Isle of Mull

SUPPLEMENTARY REPORT NO. 1

(A) INTRODUCTION

This application is to be presented to the Planning, Protective Services and Licensing (PPSL) Committee on 22 May 2024.

The purpose of this Supplementary Report is to bring Member's attention to late representations received regarding the proposed development which is addressed in Section B below.

(B) REPRESENTATIONS

A late representation has been received from Cllr Willie Hume, local member for Oban South and the Isles (received 21st May 2024) raising the following issues:

"I have been contacted by one of my constitutions, all be it very late in the day regarding Planning Application 23/00185/PP.

A few points I would like to highlight before tomorrows meeting.

1 The application states that the house will connect to a public water supply, there is no public water supply in that area.

2 The electricity supply is on the opposite side of the road, the application does not state if the supply will be overhead or underground. If it is poles and overhead wires this will impact the surrounding landscape.

3 The proposed development is contrary to polices LDP Strat 1 and LPD 9 of the local development plan, I would strongly recommend a **SITE VIST** before any decision is made."

Comment: It is noted that the application is to be served by a private water supply, this matter is detailed in the main report of handling. It is noted that the provision of a connection to the electricity network is not a matter that requires express planning permission. The reference to LDP STRAT 1 and LDP 9 is unclear and it is assumed is made with reference to the now superseded Argyll and Bute Local Development Plan 2015. It is noted that there is no obvious conflict in respect of the intentions of LDP STRAT 1 which promotes the concept of sustainable development which is now looked at more extensively under the provisions of LDP2; it is also noted that the provisions of LDP 9

related to development setting, layout and design – again matters which are all reflected in detail within the updated context of LDP2 and against which officers have set out their assessment of the proposal and a recommendation that the current application is in accordance with these requirements. It is noted that officers have undertaken a site visit in their own assessment of the proposal and will include site photographs in their presentation to PPSL; it would be up to members to determine if a further site appraisal would add value to their own consideration of this matter.

A further late issue has been conveyed as a verbal representation (further to her original written representation) from Kirsty Leitch to the Planning Authority, advising that the replacement agricultural building, as detailed within application reference 24/00259/PNAGRI, would not be suitable for the agricultural activities associated with the farm.

Comment: The comments regarding the replacement agricultural building are noted. It is proposed to amend Condition 15 – Phasing of Development, relative to the application to allow for increased flexibility for an alternative scheme for the provision of the replacement barn.

A late representation has been received, by email only, from Helen Mackay, dated 21.05.2024. The representation is summarised as:

The replacement agricultural building is unsuitable, in practical terms, for the required agricultural purposes. The field forming part of the application site for the new house is part of the farm's in-bye land and is classified as improved grassland. The field is used for holding hogs on their return from away-wintering and at this time all other in-bye land is used to capacity. If allocating another field for these purposes, flock size would have to be reduced, losing support payments and productivity. This would be contrary to LDP2 Policy 83 where this would result in this loss of agricultural land where it weakens the viability of the agricultural unit. Housing hogs elsewhere would be costly and an additional building would have visual impacts.

Comment: The development proposed by the current application seeks to develop an existing barn and a rough area of adjacent ground. In terms of the land capability for agriculture, the application site falls within Class 5.2 where the land is capable of use as improved grassland, where pasture establishment may be difficult to maintain. NPF 4 Policy 5, sets out 'Prime Agricultural Land' as being Class 1, 2 or 3.1 in the land capability classification for agriculture. The proposed development would be of a location that it would not impact upon prime agricultural land, and its limited scale is such that it would not impact significantly upon land of lesser quality that is culturally or locally important for primary use, with due consideration to the extent of the wider agricultural landholding.

The full list of conditions, to include the amendment to Condition 15, is appended to this report.

(C) RECOMMENDATION

That Members note the content of this report which does not introduce any new information that has not already been addressed in the original Report of Handling.

The recommendation of the Planning Authority remains that planning permission be granted subject to the conditions and reasons appended to Supplementary Report No. 1.

Reviewing Officer: Peter Bain

Date: 21.05.2024

Fergus Murray
Head of Development and Economic Growth

APPENDIX A – CONDITIONS AND REASONS RELATIVE TO APPLICATION NO. 23/00185/PP, TO INCLUDE AN AMENDMENT TO CONDITION 15, PHASING OF DEVELOPMENT.

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/00185/PP

Standard Time Limit Condition (as defined by Regulation)

Standard Condition on Soil Management During Construction

Additional Conditions

1. PP - Approved Details & Standard Notes – Non EIA Development

The development shall be implemented in accordance with the details specified on the application form dated 01.02.2023, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Existing Drawings 1 (downtakings in red)	PL_003		02.02.2023
Existing Drawings 2 (downtakings in red)	PL_004		02.02.2023
Proposed Elevations	PL_008		02.02.2023
Proposed Plan	PL_006		02.02.2023
Proposed Section A-A South Elevation and Section B-B	PL_007		02.02.2023
Proposed Renders	PL_009		02.02.2023
Proposed Interior Renders	PL_010		02.02.2023
Existing Site Plan	PL_002		27.02.2023
Proposed Site Plan	PL_005		27.02.2023
Proposed Plan	PL_006		27.02.2023
Location Plan	PL_001		27.02.2023

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. Timescale to be Agreed for Completion

No development shall commence until details of the proposed timescale for completion of the approved development have been submitted to and approved by the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

Reason: In order to comply with the requirements of NPF4 Policy 16F.

3. Sustainable Drainage System

Notwithstanding the effect of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753 and Sewers for Scotland 4th Edition. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

Note to Applicant:

- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk .

4. **Landscaping and Biodiversity Enhancement**

No development shall commence until a scheme of biodiversity protection and enhancement, boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels;
- iv) Proposed hard and soft landscape works; and
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development.

The development shall not be occupied until such time as the physical biodiversity enhancement measures (bird nesting boxes, 'swift bricks', wildlife ponds, bat and insect boxes, hedgehog homes etc), the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All biodiversity enhancement measures consisting of new or enhanced planting shall be undertaken either in accordance with the approved scheme of implementation or within the next available planting season following the development first being brought into use.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

5. Junction with Public Road

Notwithstanding the provisions of Condition 1, the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing SD08/004a and shall include visibility splays of 2.4 metres to point X by 75 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to Applicant:

- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.

6. Parking and Turning As Shown

The parking and turning area shall be laid out and surfaced in accordance with the details shown on the approved plans prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

7. Private Water Supply

No development shall commence until an appraisal of the wholesomeness and sufficiency of the intended private water supply and the system required to serve the development has been submitted to and approved in writing by the Planning Authority.

The appraisal shall be carried out by a qualified hydrologist and shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 which shall inform the design of the system by which a wholesome and sufficient water supply shall be provided and maintained. The 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.

The development shall not be brought into use or occupied until the required water supply system has been installed in accordance with the agreed specification and is operational.

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.

Note to Applicant:

- Regulatory requirements for private water supplies should be discussed with the Council's Environmental Health Officers in the first instance.

8. **Submission of Details of Materials**

Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the construction of the roof coverings and external walls have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

9. **PP - Removal of PD Rights – Dwellinghouse**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Part 1 and Classes 1A, 1B, 1D, 2B, 3A, 3B, 3C, 3D and 3E of the aforementioned Schedule, as summarised below:

PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class 1A: Any enlargement of a dwellinghouse by way of a single storey ground floor extension, including any alteration to the roof required for the purpose of the enlargement.

Class 1B: Any enlargement of a dwellinghouse by way of a ground floor extension consisting of more than one storey, including any alteration to the roof required for the purpose of the enlargement.

Class 1D: Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

Class 2B: Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

Class 3A: The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

Class 3B: The carrying out of any building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse.

Class 3C: The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of that dwellinghouse or the replacement in whole or in part of such a surface.

Class 3D: The erection, construction, maintenance, improvement or alteration of any deck or other raised platform within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse.

Class 3E: The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.

No such development shall be carried out at any time within this Part and these Classes without the express grant of planning permission.

Reason: To maintain the integrity and architectural value of this bespoke dwellinghouse and to protect it and its immediate setting against inharmonious additions and accretions and to protect the sensitive area and the setting of the proposed dwellinghouse in the interest of visual amenity and public health, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).

11. **Pre-commencement Survey**

No development or other work shall be carried out on the site until a pre-commencement survey for the presence of nesting birds has been carried out by an appropriately qualified person and has been submitted for the written approval of the Planning Authority. In circumstances where species of interest are identified as being present, or at risk from construction works, the survey shall further provide suggested avoidance and or mitigation measures, including timing constraints, to address such presence or risk. The development shall be implemented in accordance with the measures identified in the duly approved scheme.

Reason: In order to establish that the circumstances of the site have not changed significantly between approval and implementation of the development for the purpose of protecting natural heritage assets in the interest of nature conservation.

12. **Implement/Operate Development in Accordance with Identified Mitigation Measures**

Notwithstanding the provisions of Condition 1, the development shall be undertaken in accordance with the mitigation measures set out in the documents titled 'Preliminary Ecological Appraisal' dated August 2022 and 'Otter & Bat Surveys Report' dated September 2022.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

13. **Contaminated Land**

Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and

approved, by the Planning Authority, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination to the satisfaction of the Planning Authority, and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, and d of this condition.

Should the desk study show the need for further assessment this will be undertaken in the following sequence:

- b) A detailed investigation of the nature and extent of contamination on site, and assessment of the risks such contamination presents.
- c) Development and agreement of a remedial strategy (if required) to treat/remove contamination ensuring the site is made suitable for its proposed use (this shall include a method statement, programme of works, and proposed verification plan).
- d) Submission of a verification report for any agreed remedial actions detailing and evidencing the completion of these works.

Written confirmation from the Planning Authority, that the scheme has been implemented and completed shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

14. **Tree Retention and Protection**

No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 "Trees in Relation to Construction".

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped

or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

15. Phasing of Development

No development shall commence until such time as the associated replacement agricultural building (either as granted under prior notification ref. 24/00259/PNAGRI; or subsequently renewed/amended, or an alternative scheme for the provision of a replacement building that has been acknowledged as such in writing by the planning authority) has been erected and made available for agricultural use in the management of Lagganulva Farm.

Reason: In order to ensure that the development of the existing barn the subject of this current planning permission is delivered in accordance with the stated management and development of the remainder of the agricultural holding.

**Argyll and Bute Council
Development and Economic Growth**

This Supplementary Report is a recommended response to the Scottish Government's Energy Consents and Deployment Unit (ECDU) Section 36 consultation on the proposed Breackerie wind farm on Land Approximately 8km south west of Campbeltown, Argyll & Bute

Reference No: 23/002230/S36

Applicant: The Scottish Government on behalf of EnergieKontor UK Ltd
Proposal: Electricity Act Section 36 consultation relevant to Breackerie Wind Farm

Site Address: Land Approximately 8km south west of Campbeltown, Argyll & Bute

SUPPLEMENTARY REPORT NO. 1

1. INTRODUCTION

Since publication of the Report of Handling, the Applicant has raised matters of clarification in relation to the proposed conditions and their response to NatureScot, to be addressed by this Supplementary Report.

2. MINOR REVISIONS TO RECOMMENDATION:

In relation to the recommended planning conditions, it is noted that should planning consent be granted by Scottish Ministers, there would be further discussions to reach agreement on the detailed wording of the planning conditions between the Council, the Energy Consents Unit and the Applicant. As such, the proposed conditions and provisions for legal agreements as set out in the Recommendation are intended to capture the key matters for inclusion following the assessment of the proposal and are not the final wording. However, the proposed clarifications are noted in the revised Recommendation below.

That the ECU be notified accordingly that:

- 1. Argyll & Bute Council does not object to the proposed development subject to the inclusion of conditions recommended by consultees being included in any consent.**
- 2. Argyll & Bute Council further recommends the following conditions and provisions for legal agreements as discussed with the applicant to mitigate the specific impacts of the Breackerie Wind Farm proposal:**
 - **Revision of height above AOD and/or location of T7 and T9 in consultation with Argyll and Bute Council to reduce landscape and visual impact and heritage impacts;**
 - **Aviation detection lighting system to be installed as soon as practicable, to avoid the visual impact on the dark skies of the Mull of Kintyre;**
 - **Reduced wind turbine micro-siting allowance of other wind turbines to 50m to ensure no change from assessed proposal, unless otherwise agreed;**

- Delivery of **up to** 80 ha compensatory biodiversity enhancement measures at Largiebaan Nature Reserve, **or an alternative location as agreed in consultation with the Council** and consideration of further on-site compensatory planting; and
 - Noise protection measures (AM and fixed minimum limits).
- 3. Regarding the outstanding Aviation matters, Argyll & Bute Council would defer to the expert advice of National Air Traffic Systems and Glasgow Prestwick Airport to resolve these matters with the ECU.**

Officer response: the suggested clarifications provide additional detail on the measurement of height in AOD of the turbines and the consultation process with the Council on the proposed reduced micro-siting of the turbines. The addition of 'as soon as practicable' clarifies potential timescales for implementation of aviation lighting detection system. Until this system is technically operational, aviation lighting will be required at night as set out in paragraph 7.17 of the Report of Handling. The addition of 'up to' and the suggested alternative location for the provision of the compensatory planting are reasonable additions and would be in line with the provisions of Argyll and Bute Local Development Plan 2 Policy 78, which seeks a sequential approach to all compensatory planting.

These matters do not raise any concerns or fundamentally change the recommendation.

3. APPLICANT RESPONSE TO NATURESCOT

The applicant also noted its response to previous queries raised by NatureScot. Further to paragraph 15.2 of the Report of Handling, the applicant notes that they have responded in detail to the ornithological matters raised by NatureScot by email on 9th May 2024. NatureScot has responded to note the further response (13th May 2024).

Officer comment: these matters have been suitably addressed and do not change NatureScot's previous advice or the officer recommendation.

4. RECOMMENDATION

It is recommended that the ECU be notified accordingly that:

1. Argyll & Bute Council does not object to the proposed development subject to the inclusion of conditions recommended by consultees being included in any consent.
2. Argyll & Bute Council further recommends the following conditions and provisions for legal agreements as discussed with the applicant to mitigate the specific impacts of the Breackerie Wind Farm proposal:
 - Revision of height above AOD and/or location of T7 and T9 in consultation with Argyll and Bute Council to reduce landscape and visual impact and heritage impacts;
 - Aviation detection lighting system to be installed as soon as practicable, to avoid the visual impact on the dark skies of the Mull of Kintyre;
 - Reduced wind turbine micro-siting allowance of other wind turbines to 50m to ensure no change from assessed proposal, unless otherwise agreed;
 - Delivery of up to 80 ha compensatory biodiversity enhancement measures at Largiebaan Nature Reserve, or an alternative location as agreed in consultation with the Council and consideration of further on-site compensatory planting; and

- Noise protection measures (AM and fixed minimum limits).
3. Regarding the outstanding Aviation matters, Argyll & Bute Council would defer to the expert advice of National Air Traffic Systems and Glasgow Prestwick Airport to resolve these matters with the ECU.

Author of Report: Shelley Gould
Reviewing Officer: Sandra Davies

Date: 21st May 2023
Date: 21st May 2023

Fergus Murray
Head of Development and Economic Growth

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