

Inverclyde Local Review Body

Our Ref: 12/0357/IC

REVIEW DECISION NOTICE

Decision by Inverclyde Local Review Body (the ILRB)

- Site address: Cairncurran Farm, Auchenfoil Road, Kilmacolm
 - Application for Review by Savills on behalf of Windberry Energy Operations Limited against the decision by an appointed officer of Inverclyde Council
 - Application Ref: 12/0357/IC
 - Application Drawings: WB115/01 Rev G - Site Location Maps
 WB115/02 Rev G - Proposed Site Plan
 WB115/03 Rev G - Turbine Details
 - Site Inspection took place on 26 September 2013
 - Date of Decision Notice: 9 October 2013
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Decision

The ILRB reverses the determination reviewed by it and grants Planning Permission, subject to the condition(s) listed below. Attention is also drawn to the Advisory Notice at the end of this Review Decision Notice.

1. Introduction

- 1.1 This Notice constitutes the formal decision notice of the ILRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission was considered by the ILRB firstly at a meeting held on 4 September 2013. The ILRB was constituted by Provost Moran, Councillors G Dorrian, T Loughran, I Nelson and D Wilson. At that meeting, the members of the ILRB decided that they wished to carry out an unaccompanied site inspection before making a decision in respect of this matter. The meeting was adjourned to allow a site inspection to be carried out and said site inspection, attended by Provost R Moran, Councillors G Dorrian, I Nelson and D Wilson, took place on 26 September 2013. The ILRB re-convened on 2 October 2013 to determine the matter. The ILRB on 2 October 2013 was constituted by Provost R Moran, Councillors G Dorrian, I Nelson and D Wilson (Chair).

2. Proposal

- 2.1 The application proposal is for the erection of a wind turbine with an overall height to blade tip of 53.71m. A 4.0m wide access track is proposed to link the site to the B788 at Cairncurran Cottage. Also proposed is an approximately 2.5 square metres equipment housing. The application was refused consent in terms of a decision letter dated 15 March 2013.

3. Preliminaries

3.1 The ILRB members were provided with copies of the following:

Planning Application and plans
Site photograph
Report of Handling dated 7 March 2013
Consultation Responses
Representations
Decision Notice dated 15 March 2013
Letter dated 6 June 2013 from Savills enclosing Notice of Review form together with supporting documents comprising:-
Review Statement
Drawings
Planning, Design and Access Statement
Landscape and Visual Impact Assessment
Landscape and Visual Impact Assessment Figures
Ecology Assessment
Cultural Heritage Assessment
Shadow Flicker Assessment
Noise Assessment
Further representation
Email dated 19 July 2013 from Savills enclosing response to further representation
Suggested conditions should planning permission be granted on review.

3.2 The ILRB was advised in detail of two emails, one of which included a plan, received on the day of the meeting relative to the Erskine to Devol Moor Overhead Line Route. The ILRB considered this matter and decided not to take cognisance of these emails.

3.3 Having regard to the material produced the ILRB resolved that the Review Application could be determined without any further procedure allowed in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

4. Reasons

4.1 The determining issues in this review are the impact of the proposed turbine on visual amenity and the landscape and residential amenity.

4.2 The application had been refused as:-

The height and scale of the proposed turbine, proximity to housing and the B788 road combine to create an unexpected and dominant feature in this part of the Inverclyde countryside to the detriment of visual amenity and landscape character and is thus contrary to:

- a. Policy UT6 of the Inverclyde Local Plan, criterion (b) which requires regard to be given to the landscape, especially when viewed from major transport corridors;
- b. Interim Inverclyde Local Plan Policy UT6A, criterion (c) which requires turbines to be sited within the landform to ensure that they do not have a detrimental effect on the landscape and wider environment;
- c. Interim Inverclyde Local Plan Policy UT6B, criterion (f) which requires regard to be given to the landscape, especially when viewed from public vantage points, including local roads, neighbouring settlements and when set against the skyline; and
- d. Inverclyde Local Plan Policy HR1, criterion (b) which requires that visual amenity shall not be compromised.

- 4.3 In their review statement, the applicants concluded that the refusal of the planning application places an undue significance on the Council's perception of impacts with little apparent regard for the findings of the professionally prepared specialist landscape and visual assessment or the views of local residents. Further, independent consultees have raised no objection to the proposed development on landscape and visual, historic environment or amenity grounds and the applicants submitted that the single turbine proposal does not conflict with the policies cited in the reasons for refusal, with no weight being given to the positive benefits of the development.
- 4.4 The ILRB gave consideration to the application site, concerns raised by objectors and consultation responses.
- 4.5 The ILRB determined that having regard to the whole circumstances and taking the application on its individual merits, the review be upheld subject to the conditions listed in paragraph 5 below.

5. Conditions

1. The permission hereby granted shall endure for a period of 25 years from the commencement of the development. At the end of that period, unless a further application for its retention has been submitted to and approved by the Planning Authority, the wind turbine, structures and ancillary equipment shall be dismantled and removed from the site, and the ground fully reinstated to its former condition to a depth of no less than one metre below surface level, or such other means of restoration shall be carried out as may be agreed in writing by the Planning Authority, all such restoration to be completed within six months of the end of the 25 year period.
2. In the event that the turbine fails to produce any electricity supplied to the grid for a continuous period of twelve months then it shall be deemed to have ceased to be required and, unless agreed in writing by the Planning Authority, the wind turbine, structures and ancillary equipment shall be dismantled and removed from the site, and the ground fully reinstated to its former condition in accordance with the requirements of condition 1.
3. The wind turbine shall be finished in a non-reflective, semi-matt finish and no advertising shall be displayed on any part of the turbine unless otherwise agreed in writing by the Planning Authority. Details of the finish and colour of all externally visible components shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development.
4. No development shall commence until a Drainage Impact Assessment has been submitted to and approved in writing by the Planning Authority.

Reasons

1. In recognition of the expected lifespan of the wind turbine and to ensure the proper restoration of the site, in the interests of safety and visual amenity, at the end of the permitted period.
2. In the interests of the visual amenity of the area by removing redundant or partially dismantled equipment.
3. In the interests of the visual amenity of the area.
4. To prevent harm to nearby watercourses.

Signed _____

Head of Legal & Democratic Services
Inverclyde Council, Municipal Buildings, Greenock PA15 1LX

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.