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5th February 2013

Lesley Bloomer
Executive Director - Development & Environment
South Ayrshire Council
County Buildings
Wellington Square
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Dear Lesley,

Wind Turbines in South Ayrshire and South West Scotland

Thank you for your email of 16th October with regard to the cost of wind turbine planning applications to councils and thus the rate payer. I attach a press release¹ given by the Scottish Conservatives for your information.

You know that I come from a tourism background and not only have a successful tourism business myself but I have worked hard promoting tourism in Ayrshire for 23 years. My letter and requests come in support of the tourism legacy we hope to leave for future generations.

Since many of the windfarm applications have been submitted to South Ayrshire Council there have been important changes to the designation of much of the area in question. The Galloway and Southern Ayrshire Biosphere has been awarded UNESCO status. Kilgallioch and the appealed application by Falck Renewables Wind Ltd to the Scottish Government (11/00564/APPM) lie in the transition zone and are of immediate concern to me at the moment. I see that South Ayrshire Council have 'Deemed Permission' and not requested an Environmental Impact Assessment for the Kilgallioch section 36 application.

Due to the changes of status I would like to request that South Ayrshire Council reconsiders its stance for all the/



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the reasons contained in my letter of 6th December to Robert Logan at the Scottish Government ⁱⁱ(copied to you and attached for you convenience) requesting information through the Environmental Information (Scotland) Regulations 2004, regulation 5.*. I have had a response to this letter which does not answer all my questions, therefore I have written to David Wilson requesting a review. Under the same regulations I request the following information from SAC.

I asked the EU Chair of the Sustainable Mountain Development which covers the UK's UNESCO Biosphere reserves how the designation fits in with the EU's Natura 2000 network. I attach the whole response ⁱⁱⁱ.

It is of paramount importance to the economic future of rural tourism in South Ayrshire that protection is put in place immediately before any further windfarms are considered within the 3 zones of the Biosphere.

‘The Habitat Regulations (HR) place a number of general and specific duties and obligations on Ministers, SNH, other relevant public authorities and local authorities in relation to Natura 2000 sites themselves and to sites which support the Natura 2000 network. Guidance on site selection, designation and protection is included. The HR also apply to Section 36 and Section 37 of the Electricity Acts.

The HR states that “over time development plans must clearly refer to European sites” “The development plan should emphasise the very strict protection which must be afforded....”. However the HR goes beyond SACs and SPAs to sites which have other designations or which are not designated but which support “the ecological coherence of the Natura 2000 network”.

Although currently under preparation no new Local Development Plans have yet been adopted by the Ayrshire Councils in the area covered by the Biosphere, therefore the AJSP 2007 is still the current strategic Development Plan for the area. AJSP 2007 includes the plan plus supporting documentation.’

‘This approach is given support in SG planning guidance. SPP para 126 states:

126. Planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area. A strategic approach to natural heritage in which wildlife sites and corridors, landscape features, watercourses, and areas of open space are linked together in integrated habitat networks can make an important contribution to the maintenance and enhancement of biodiversity and to allowing ecosystems and natural processes to adapt and respond to changes in the climate. Planning authorities should seek to prevent further fragmentation or isolation of habitats and identify opportunities to restore links which have been broken. Where possible, planning authorities should seek benefits for species and habitats from new development including the restoration of degraded habitats.

Therefore/



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Therefore the expectation is that everyone will ‘up their game’ to ensure that there is progress towards the aspiration of the area being a “World Class Place for People and Nature”. This approach is advocated in Scottish Government’s planning policy under Para 125 of SPP,’

“125. Scotland’s landscape and natural heritage are internationally renowned and important, underpinning significant industries such as the food, drink and tourism industries, and are a key component of the high environmental quality which makes Scotland an attractive place in which to live, do business and invest. Improving the natural environment and the sustainable use and enjoyment of it is one of the Government’s national outcomes. Planning authorities should therefore support opportunities for enjoyment and understanding of the natural heritage.”

The development of both Kilgallioch and Assell Valley windfarms contravene many of the current AJSP and certainly do not fit into the requirements of UNESCO status for the transition zone. Areas have been known to lose their status and it is the responsibility of SAC to preserve it for future generations.

Regarding impacts on tourism, the results of the John Muir Trust’s latest findings in the UGov survey must be taken into consideration. You cannot only rely on the findings of the Visit Scotland Survey or the Moffat Survey. The JMT UGov survey reflects what my guests are telling me.

<http://www.jmt.org/news.asp?s=2&nid=JMT-N10737> and again I would refer you to the information in the attached letter to Robert Logan. I wish to highlight the following:

- A poll commissioned by the John Muir Trust found that large-scale turbine developments deter visitors, with 36 per cent of people saying they would be “less likely to visit a scenic area with a large concentration of wind farms”.

The trust said it showed that pursuing the development of large-scale wind farms in some of Scotland’s most scenic landscapes could have “potentially catastrophic consequences” for tourism.

“This poll shows that up to 20 million adults across the UK may think twice about visiting areas where the landscape is blighted by turbines. That represents a serious long-term threat to those areas whose economic lifeblood is tourism.”

The survey also showed that the majority of respondents believed the government should prioritise the protection of Scotland’s landscapes over the development of wind power.

Stuart Brooks, trust chief executive, said: “There is a growing groundswell of opposition to the siting of large-scale wind farms on wild land – much of which is in Scotland. This sends a clear message to politicians of all parties who have supported policies to industrialise our landscapes with wind turbines double the height of the Scott Monument.”

It/



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It is the first national poll to measure the level of public support for large-scale wind farms in the UK.

- Visit Scotland treated their survey findings as a political vote - in other words if a majority think windfarms are okay, then they are. In fact, with economic decisions 'every vote counts' so if 20% dislike windfarms then that's 20% of revenue potentially lost. **Figures released this January show that visitors to Scotland are about 100,000 down in 2012 which reflects the Visit Scotland and other survey findings. Ayrshire can ill afford to lose any of its tourism economic benefit.** Ayrshire is also showing one of the largest falls in the value of its properties which may be a reflection on the large number of prospective windfarm applications where houses and businesses become unsellable.

Neither evidence from property prices, nor from tourism surveys, nor even from compensation payments, will capture the full cost of the damage done. The beauty of views and the sense of peace and quiet in rural settings is a classic 'positive externality' in economists' jargon. It has value that is very difficult to measure because it is not fully reflected (if at all) in a cash flow. For example, if someone walks from Cosses Country House up Beneraird (the highest point in South Carrick) his enjoyment will be incrementally decreased if what was once a bucolic 360 degree view of landscapes and seascapes has become filled with turbines. What is the value of his experience before and after the development? At the moment it is still possible to enjoy part of this bucolic 360 degree view and look towards the Firth of Clyde, the Merrick, the Lake District, and the Isle of Man without turbines completely obliterating the view for the visitor. If Straid, Millenderdale, Assell Valley, Corwar, Kilgallioch, Stranoch, Glen App and others are permitted, then this will not be the case. Already Carscreugh, Glenchambers and other wind turbines have been approved against the wishes of the local people. All views from the coast just East of Girvan round to the southwest where there is the North Rhins windfarm at Port Patrick will be contaminated by turbines. If turbines are allowed in the Solway and in the Ayrshire coastal waters then there will be nothing left for anyone (except those getting the subsidies) and Galloway and South Ayrshire tourism will be dead and buried for generations to come. What a terrible legacy this government is enforcing on the people of Scotland.

<http://maps.google.co.uk/maps/ms?ie=UTF8&hl=en&msa=0&msid=202339027492384318195.00049c4381d314fe75cdc&z=11>

I also wrote to you on 19th July with reference to Aarhus. In your reply to me on 31st July you said that you would commence a review of your policy on energy developments during the course of 2013/14 and intended to include a review of Aarhus in the early stages of that work. May I presume to suggest that as the Scottish Government is continuing to use a **draft** policy with no proper SEA (see the questions to the United Kingdom in the attached letter from the Compliance committee^{iv}), that it would be in the council's best interest to look at that policy immediately.

1. **Has SAC, as the competent authority produced an objectively high standard EIA document as the outcome of the public participation on application 11/00564/APPM?**
2. **Has SAC requested the same on behalf of the communities it represents from the Scottish Government re Kilgallioch Section 36 application?**

- The Aarhus Convention: <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>
- The excellent "Aarhus Convention: An Implementation Guide", which explains it all in plain English: <http://www.unece.org/fileadmin/DAM/env/pp/acig.pdf>



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- The Environmental Impact Assessment Directive, which can be found at:
[at:http://ec.europa.eu/environment/eia/eia-legalcontext.htm](http://ec.europa.eu/environment/eia/eia-legalcontext.htm)
- Scottish Regulations on Environmental Impact Assessment of 2011: In relation to Parts 5 and Part 7, it appears that the above sections of Article 6 of the Environmental Impact Assessment Directive and the Aarhus Convention have not been transposed. To make it clear to all concerned, this does not mean these obligations do not apply to Scottish Authorities, they do, as EU law takes
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- precedence and both the EU and the UK are Parties to the Convention:
<http://www.legislation.gov.uk/ssi/2011/139/contents/made>

In relation to the renewable energy programme, the UNECE Aarhus Convention Compliance Committee has already ruled in Communication ACCC/C/2010/54 that the implementation of Directive 2009/28/EC (20% renewable energy target by 2020) in the 27 Member States has by-passed the provisions of the Convention.

- <http://www.unece.org/env/pp/compliance/Compliancecommittee/54TableEU.html>

In Communication ACCC/C/2012/68, the Compliance Committee is investigating failures by the UK/EU to comply with the Convention, in particular the documentation submitted on the 24.09.2012, in relation to how the UK specifically by-passed the Convention in adopting its Renewable Energy Action Plan (NREAP) and how both the UK/EU have failed to possess and ensure transparency in relation to information on alleged emissions savings from wind farms.

- <http://www.unece.org/env/pp/compliance/compliancecommittee/68tableeuuk.html>

In relation to the Environmental Impact Assessment Directive itself, which implements particular requirements of the Aarhus Convention into Member State law, Scotland is not in compliance. With regard to the Scottish Environmental Impact Assessment Regulations of 2011 there are transposition failures in relation not only to making available the main reports and advice, but also with regard to completion of the Environmental Assessment required by Article 3 of the Directive and finally, failures with regard to transposing into Scottish law the relevant provisions and rights in relation to Access to Justice. This is not only unfortunate in that it is not only leading to systematic bad planning, but in that it is a direct violation of the procedural rights of the citizen to participate in the decision-making. However, there are well established rights in relation to how 'Member States are obliged to make good loss and damage caused to individuals by breaches of Community law for which they can be held responsible'.

- http://ec.europa.eu/eu_law/infringements/infringements_dommages_en.htm

With regard to wind farms in Scotland, it is very clear from the above that systematic breaches of Community/



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Community law are occurring, which have violated the Rights of the Citizens. There are also damages occurring, such as to loss of amenity, health impacts from turbines, loss of property values, increased electricity charges associated with alleged environmental protection benefits, which not only have never been verified, but are simply not occurring at anything approaching the claims made by the authorities, etc.

There is no doubt that Scottish authorities will in future face not only Judicial Review proceedings in relation to wind farms they have approved, but also in relation to damages with regard to breaches of Community law for which they are responsible. It is also clear with regard to the current state of legal compliance of these authorities in relation to wind farm approvals, that it would be very difficult to defend such legal actions; in other words there are major liabilities under current circumstances.

Yours faithfully

Susan Crosthwaite

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cc: South Ayrshire Council - Mike Newal, Nigel Wallace, David Anderson
Graeme Pearson MSP, Claudia Beamish MSP, Chic Brodie MSP, Jim Hume MSP, Joan McAlpine MSP, Paul Wheelhouse MSP, Adam Ingram MSP
Sandra Osborne MP
Struan Stevenson MEP
SNH – Brendan Turvey , John Adhair, Dorothy Simpson
Councillors:
Peter Convery, Alex Oattes, Bill Grant, Sandra Goldie, Alec Clark, William Grant
Brian Connolly, Douglas Campbell, Ian Cavana, John Hampton, Rita Miller, Ann Galbraith
Nan McFarlane, Ian Douglas, Mary Kilpatrick, Brian McGinley, Corrie Wilson, Kirsty Darwent,
Bill McIntosh, Allan Dorans, Robin Reid, Andy Campbell, Hywel Davies,
Philip Saxton, John McDowall, Ian Cochrane, Hugh Hunter, Helen Moonie, Margaret Toner.

Appendix:

ⁱ Scottish Conservative Press Release

ⁱⁱ Letter of 6th December to Robert Logan at the Scottish Government

ⁱⁱⁱ How UNESCO status fits in with Natura 2000 status

^{iv} The questions to the United Kingdom in the letter from the Compliance committee



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