

## ***AVICH & KILCHRENAN COMMUNITY COUNCIL***

Tigh-an-Drochaid,  
Kilchrenan,  
Argyll,  
PA35 1HD.

Mr. N. Mainprize,  
Operations Manager,  
Forestry Commission Scotland,  
Perth and Argyll Conservancy,  
Algo Business Centre,  
Glenearn Road,  
Perth,  
PH2 0NJ.

20<sup>th</sup> October 2009.

Dear Mr. Mainprize,

### Application for the West Loch Awe Timber Haul Route and Carraig Gheal Wind Farm Access

AKCC has read the new EIA with some surprise and great disappointment as although there are much improved and welcome reports on various aspects, some important original concerns and requests have not been addressed or covered.

These are as follows, with the additional comments and observations which constitute an objection.

1. We have received no explanation as to why Forest Enterprise presented maps purporting to be the original plans for the route. The old map shows that it is only since Green Power became involved in providing funds for the route, that the current plans have evolved. This aspect of the EIA has a direct bearing on the application for the Certificate of Lawfulness and our response is therefore being copied to Argyll and Bute legal department. Neither has there been a response to our request for sections of the original route to be further discussed and acknowledged.
2. We must again point out that the EIA should be an Argyll & Bute Council exercise and not one presented by Forest Enterprise and partner. Issues now apparent were not so when the Council gave their approval for the route to come under Forestry permitted development and general EIA regulations. This was further outlined in our objection to the Certificate of Lawfulness, where aspects of the development were shown not to fall within the remit of general permitted development. In particular in respect of engineering works involving the proposed Loch Avich bridge and environmental impacts, and those surrounding borrow pit 27 and its proximity to a

nest site of one breeding pair of golden eagles. It should be noted that it is in the core area of two breeding pairs.

Our Golden Eagle advisor is currently out of the country until the 21<sup>st</sup> October after which we will submit an addendum to this letter specifically regarding the Golden Eagles.

Until a decision has been made on the Certificate of Lawfulness application, we consider that any approval by the Forestry Commission of the new EIA, would be premature.

3. 7.8 of Conclusions in the Ornithological I.A admits that there are potentially significant impacts upon Schedule 1 species of the Wild Life & Countryside Act as amended by the Nature Conservation (Scotland) Act 2004 (which introduces the concept of "reckless behaviour") AKCC have consistently highlighted as unacceptable the location of borrow pit 27 as referred to earlier. Therefore this issue remains unresolved and approval of this site will constitute "reckless behaviour" as defined by Schedule 6 (Protection of Birds-Offences.) of the Nature Conservation Act (Scotland) 2004. Additionally, the EIA states:

**"However, along the section of the route closest to the nest site, the trees are due to be felled between 2012 to 2018. Therefore, though currently the plantation affords some screening subsequent to felling, this screening will be removed and operational activities during the nesting period may cause this alternative nest site to be *abandoned* for future use."**

In our opinion knowingly causing abandonment of a Golden Eagle nest must be considered "reckless behaviour". This activity would also be contrary to the EU Birds Directive 79/409/EEC.

There are further admissions of a high degree of reliance on desk top reports, and that the 'walk over' survey was insufficient for needs having taken place only during July 09.

4. b.p. 27 study area admits the existence of numerous Pearl Bordered Fritillary butterfly sites plus two of the Small Bordered F. sites existing actually on the proposed route. This further renders the site highly undesirable.

5. The long overdue lichen report containing an eight page long list of species, now highlights the true extent of the vulnerability of the Loch Avich River area which hosts rare and irreplaceable lichen species. The mitigation suggested is neither able to guarantee success nor adequate in respect of those species clearly listed as vulnerable under high EU conservation requirements. Under 'potential impacts' it is admitted that work involved is likely to result in the direct loss of flora and *permanent* loss of habitat for species 'scarce/rare/or threatened' due to changes in humidity and light levels. There is an admission that further survey work would be required. Page 10 para 9-1.

In the unlikely event that our recent suggestion for a new route (CRA1) is not adopted, this survey must clearly be carried out *before*, not after, work commences in order to comply with EUOCIEC interests. *The River Avich environs are now*

*exposed to be equal to, or of higher value than those of the existing nearby SSSI. The locality is in fact identical in species enjoying the enhanced protection given and there is now a strong case for an application to be made to extend the area of this SSSI.*

6. Again, the new route CRA1 will reduce to negligible, the highly detrimental effects on the important Loch Avich Tourist attractions and local amenities provided by Loch Avich walks and parts of cycle routes. Some small sections of relocation may still need to be constructed well before work starts, but these are unlikely to be permanently required.

7. Consultee and Applicants's responses Vol.1V. Page 2.

a. In the letter from Green Power to Nick Mainprize dated 17/06/09, it is stated that crossing C20 was selected 'due to its suitability as a crossing point over the Avich' and that a move downstream 'creates difficulties as the track climbs to the south.'

The River Road track was originally constructed to haul timber from the adjacent forest at the appropriate time. There are clearly gradients of similar incline along the course of the whole route e.g. on the approach to C22. Therefore the gradient in question, which has only gentle curves, is perfectly suitable for normal forestry requirements. Should for reasons unknown, the new route suggested, CRA1, be rejected due to unsuitability for turbine traffic, this would further demonstrate the degree in which the needs of the developer are driving the EIA and Certificate of Lawfulness applications beyond clear environmental concerns. Any disadvantages from the short extra distance to be travelled on an already existing road, are far outweighed by the considerable savings in both environmental damage and costs from the provision of a completely new section of Grade A forestry road.

b. Minutes of meeting held 29.04.09. Page 2.

It is noted that the statement made by Mr. Purdy in respect of the THR have not been recorded. Namely, that were there to be no wind farm – there would be no WLATHR. All three AKCC councillors present remember the comment made during questioning of Green Power and future funding for the partnership with FE. It is likely that SNH and SEPA representatives will remember the area of discussion if asked, but most of those present are likely to confirm hearing this discussion. This is a serious omission and should be rectified.

Bridge works and potential contamination of Dalavich water supply have still not been addressed. Therefore we should like confirmation that discussions promised by ME on page 3 with Argyll and Bute Council Environmental Department, on this subject have indeed taken place, and whether the new potential crossing (CRA1) will now be offered as a better alternative. The additional advantage being that any possible contamination of the Dalavich water supply would be removed.

c. Page 4.

We should like confirmation that discussions are now well underway for traffic management plans with Argyll and Bute Council Roads department and Strathclyde Constabulary.

d. Page 6.

We note confirmation on page 6 that draft conditions to be contained within any consent would be circulated, including AKCC, prior to consent being given. As no such document has been received, we would like confirmation that consent is not yet imminent.

#### 8. Borrow pits. Ecological Report.

1.2.8. NM 0911 1049. Within 100m of key breeding site for beautiful demoiselle *Calopteryx virgo*. Exact distance is required to assess whether the listing of medium risk is adequate.

FWPM note – admits that closest stretches of watercourses not surveyed - therefore medium risk assessment is unsafe.

1.2.9. NM 0952 0866 . As above.

1.2 12 NM9136 0957. – Key breeding site for both butterflies and dragonflies. Assessment should reflect High Risk.

1.2.17. NM 9519 1321. – Hen Harriers are notoriously easy to disturb. More information is required on the listing of 'potential breeding site.' *Was the survey carried out at the wrong time of year to ascertain whether breeding was in operation at this and other sites?*

1.2.20. NM 9597 1360. As above.

1.2.21. NM9581 1370. As above.

1.2.27. NM 9535 1857. - We strongly reject the claim that this borrow pit presents a Medium Risk to the nearby breeding golden eagle pair. The ongoing noise over a long period of time from both the excavation of the borrow pit and subsequent heavier use of the route for initially, large volumes of turbine traffic, then forestry operations clearly raises the likelihood of disturbance to High Risk. It is a strong possibility that the activities would cause the pair to abandon this nest site, an event which is forbidden by legislation already described.

1.2.28 NN 0056 2195. - A further key breeding site for the species listed at b.p.12 (plus risk to otter) above. Assessment should be High Risk.

1.2.29. NN 0087 2243. - As Osprey are known to be highly sensitive to disturbance, especially if they are 'first-time' breeders, an assessment of Medium Risk may be inadequate.

Conclusion.

In respect of the borrow pits, where key breeding sites for important species have been discovered and recorded, it is impossible to accept all current risk assessments of 'Medium' instead of 'High.' Actual distances from key breeding sites are missing crucial records. These are all merely noted as 'within 100m.' It therefore becomes impossible to assess the level of risk with any degree of accuracy. It is obvious that the nearer the site to working activities, incidents of actual physical harm, wind borne dust/debris reducing or destroying sites raises the level of risk from Medium to High. A normal understanding of the destruction of a key breeding site is that it will cease to exist. The collective losses of all the key breeding sites listed would have an undeniably major impact on the species involved and is therefore an unacceptable result.

We are confident that both FCS and SNH will wish to reconsider the use of these sites as a matter of urgency and to employ the precautionary principle so badly needed and deserved.

AKCC applaud the standard of the new EIA reports but it must now be apparent that the environmental effects of the proposals as they are here presented constitute a Timber Haul Route which would not pass all FCS's own stringent EIA requirements.

We would therefore respectfully urge reconsideration of the suggestions made in both this and our previous response.

Yours sincerely,

Marilyn Henderson,  
Chair/Secretary.

cc. Mr. Keith Miller, Forest Enterprise, Oban  
Mr. Iain MacIntyre, Planning, Oban  
Mr. A. Swain, Planning, Oban  
Mr. A. Gilmour, Planning, Lochgilphead  
Mr. C. Reppke, Corporate Services, Lochgilphead  
Mr. S. Austin, SNH, Oban