

Appeal Decision Notice

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Decision by Jill Moody, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-130-2021
- Site address: Kilchattan, Todd Hill, near Southend, Kintyre
- Appeal by Kilchattan Wind Farm Ltd against the decision by Argyll and Bute Council
- Application for planning permission 08/00138/DET dated 10 January 2008 refused by notice dated 28 March 2011
- The development proposed: Erection of a 16 wind turbine wind farm and ancillary structures
- Date of hearing by Reporter: 13 December 2011

Date of appeal decision: 31 January 2012

Decision

I dismiss the appeal and refuse planning permission for the wind farm development described above.

Reasoning

1. A key issue in determining this appeal is compliance with the development plan. The development plan is made up of the Argyll and Bute Structure Plan, which was approved in 2002, and the adopted Argyll and Bute Local Plan 2009. Another key issue for consideration is national planning policy.

Development plan policy context

2. The reasons for refusing the permission refer to:

- approved structure plan policies STRAT SI 1, STRAT DC 4, 5, 6, 7 and 8, as well as STRAT RE 1; and
- adopted local plan policies LP ENV 1, 2, 6, 9 and 10, as well as LP REN 1.

The appeal submissions add STRAT DC 9 and objective RE 1, plus LP ENV 8, 16, 19.

3. The appeal site falls into an area that is shown on the adopted local plan as predominantly Very Sensitive Countryside. But the site also comprises bands of Sensitive Countryside and Rural Opportunity Area on lower ground to the south west, nearer the



public road. Comparing these designations to the proposed site layout, it would appear that all of the turbines, the wind mast and the borrow pit would be in the most sensitive part, which equates to the higher ground. The supporting text for the related approved structure plan policy STRAT DC 6 describes this high quality environment as very vulnerable to harm, with extremely limited capacity to absorb development. The proposed access roads, the switchgear building and the construction compound appear to be in the areas where the sensitivity to development gradually reduces with ground height. These areas are covered by STRAT DC 5 and 4 and the supporting approved structure plan text describes the transitional middle zone as not having general capacity to absorb development.

4. Development related to wind energy generation such as the proposal, can be compatible with STRAT DC 6. Further, despite being larger scale than STRAT DC 5 would normally permit, the proposal could be argued to have a specific locational need based on the considerable locally available wind resource, whereby it could be accepted. STRAT DC 4, 5 and 6 all then apply criteria that must be complied with, and they each expect general consistency with other relevant development plan policies.

5. STRAT RE 1 expects consistency with STRAT DC 7, 8 and 9 and it specifically encourages wind farm development. That said, it also commits the council to identifying sensitive areas where wind farms will only be acceptable in exceptional circumstances. The adopted local plan contains a wind farm policy map from which the site is in a potentially constrained designation. However, this designation only applies to schemes generating more than 20 megawatts of electricity and the proposal would have an installed generation capacity below that, of 13.6 megawatts.

6. The adopted local plan maps also show the site inside an Area of Panoramic Quality that extends across the whole of the south tip of Kintyre. The adjacent Sanda Island is another designated Area of Panoramic Quality. The appellant's original environmental statement dated June 2008 adds that the northern end of the Island of Arran is a designated National Scenic Area. Approved structure plan policy STRAT DC 8 and adopted local plan policies LP ENV 1 and 9 refer specifically to the protection of National Scenic Areas, as well as landward and coastal areas with panoramic quality.

7. In combination, these development plan policies raise the following specific themes for consideration:

- impact on landscape character including for the Area of Panoramic Quality;
- impact on visual and residential amenity;
- impact on natural heritage and the natural environment;
- impact on built heritage, especially on the setting of listed buildings and scheduled monuments;
- community benefit, including support for communities, socio-economic benefits and energy generation benefits, especially to offset areas of potential harm; and
- impact on current levels of tourist activity and attraction.

National policy context

8. The proposal would generate electricity from a renewable resource. As such, it is given strong support in Scottish Government legislation and policy. For planning purposes, the principle policy sources are National Planning Framework 2 (NPF2) and Scottish Planning Policy (SPP). Both respond to climate change by setting targets for the generation of significant amount of electricity from renewable sources by 2020. The SPP in particular expects that planning authorities will support the development of wind farms in locations where the technology can operate efficiently and where environmental impacts can be addressed satisfactorily (paragraph 187). But that support is conditional and national planning policy support does not always override development plan shortcomings. For example, NPF2 recognises environmental quality as one of Scotland's main assets (paragraph 13), and conserving and enhancing natural heritage is a main element of the spatial strategy (paragraph 53). The economic importance of high quality natural surroundings is also recognised (paragraphs 62 and 97) and landscape and visual impacts are important material considerations in decision making (paragraph 99).

9. Likewise, the SPP seeks to balance protection and enhancement of the environment with sustainable development (paragraph 33). For wind farms, which are currently one of the main sources of supply used in achieving these targets, decisions on individual proposals should protect and enhance the natural environment, including the landscape (paragraph 37). The design and location of wind farm development should also reflect the scale and character of the landscape, as advised by Scottish Natural Heritage (SNH), and the location of turbines should make sure that visual impact is minimised. As well as assessing the contribution that a proposal might make to meeting renewable targets, other criteria for consideration are likely to include similar themes to the above from the development plan, i.e.:

- landscape and visual impact;
- effects on natural heritage and the environment;
- impact on tourism and recreation; and
- benefits and disbenefits for communities (paragraph 187).

Landscape character

10. Turning then to consider the proposal against each of these themes in turn, the appellant's environmental statement is properly based on SNH's published assessment of landscape character for Argyll and the Firth of Clyde. In general, SNH's assessment describes the whole area as scenic, with stunning views, so that it tends to be highly sensitive to wind farm development. In common with most of the Kintyre peninsula, the site appears to occupy an area of upland forest moor mosaic and it seems to adjoin low coastal hills that only occur by Southend. Both landscape types are categorised by SNH as moderately sensitive to general development, based on the opportunities for most forms of development to occur without being prominent in important views. The site also seems to adjoin a strip of rocky mosaic landscape type, which follows the B842 road corridor and is regarded by SNH as very highly sensitive. Factors of note in the low coastal hills are the general openness with long views, and the contrast between the low farming landscape and

the upland forest moor mosaic area that forms a prominent and distinctive backdrop. Although most of upland of Kintyre is categorised as upland forest moor mosaic, Appendix B from SNH's report describes a difference between the uplands around the Mull, which are undulating and rounded, with those to farther north that tend to form steep ridges. Therefore, differences within the same general categorisation emerge and the acceptability of wind farm developments will vary within essentially the same general character type. In other words, acceptability elsewhere in the same general type does not amount to a precedent. It is important to look in more detail at what the landscape local to the site actually represents.

11. In simple terms and, taken as whole, I find that the northern part of Kintyre, south from Tarbert has a distinct central spine of remote, high ground that is made up of a series of high, steep sided, linear and inter-woven ridges. These ridges eventually drop to a flat plain across the whole peninsula. The plain contains the main town of Campbeltown along with neighbouring settlements that include Machrihanish. The substantial and significant airfield with its supporting former airbase and housing is also located on this same plain. As a result, the strip is comparatively highly developed and urbanised. From there, ground rises again towards the south tip of Kintyre. This high ground broadly comprises 2 distinctive humps that are separated by a low-lying corridor. The humps are generally smoother, more rounded and less topographically complex than the ridges to the north. The west hump around the Mull of Kintyre plunges steeply into the open sea. The east hump tends to ease down to the Firth of Clyde across a flank of undulating low hills. As a result, the landscape of this southern area is separate and different to that of northern Kintyre, and it is seen as such in views from the nearby islands of Arran and Sanda, as well as from the surrounding sea. In particular, the humps of the Mull form a distinctive iconic and punctuating landmark in a way that the northern range of hills does not.

12. The appellant has enlarged and interpreted SNH's broad categorisations in the submitted environmental statement to establish where the appeal site actually lies. That information has then been used to try to predict a zone of influence based on how visible the proposed wind farm might be in the immediate 5 kilometre surrounding area. The results from that show that 13 to 16 of the proposed turbines could be visible across very large parts of the local upland forest moor mosaic area and across a clear majority of the low coastal hills area. Wider areas from all 3 character types would in turn see progressively fewer turbines. As a result, the proposed wind farm is likely to be highly visible at short range, albeit subject to the potential for features such as forest plantations to intervene and screen views.

13. Using that information, the landscape appendix to the appellant's original environmental statement confirms that the proposed wind farm is likely to affect a large proportion of the upper forest moor mosaic area. The appendix also says that part of the site is inside the low coastal hills landscape character type. While this seems to differ from the related maps that show them adjoining, the tiny scale and large amount of detail contained in the original SNH maps makes it hard to be definitive. Either way, the appendix confirms the potential for direct effects over a very large proportion of this coastal hills character type. While the medium scale and simplicity of the landscape reduces the degree of potential contrast with the proposed wind farm, it would still be out of scale, so that it

would influence and harm the low coastal hills landscape character type of recognised quality to a significant degree. For the rocky mosaic landscape character type area, the appendix judges the landscape sensitivity as slightly lower than SNH. Nevertheless, the appendix predicts that the proposed wind farm would affect a relatively large proportion of that landscape character type. Further, the small scale and widely varying features that make up this rocky landscape accentuate the predicted difference in scale with the proposed wind farm. For each landscape character type the appendix then predicts a large magnitude of change and it concludes that the proposed wind farm would be out of scale with the landscape and at odds with the local pattern and landform by introducing tall, vertical structures with moving elements. I find no reason to disagree with these honestly expressed conclusions.

14. Given the site location near the south tip of Kintyre a substantial part of the zone of influence also includes the seascape around the Mull and the Firth of Clyde, including Sanda and Arran. Again quite properly, the appellant has sought to assess and quantify the implications for the character of these areas. The relevant appendix to the original environmental statement concludes that the sensitivity would vary, as would the magnitude of effect. The worst effects would be experienced around the sandy bays of Kintyre where the turbines would be obvious over a large proportion of the area covered, from where they would also look out of place. Even with distance, the turbines would be perceived as not quite fitting into the context.

15. The appellant's later environmental statement argues that the harmful effects for landscape character would be very localised and confined mainly to inside 5 kilometres. As a result, the proposal could still be accommodated within the whole wider landscape and it would just be a contrasting feature that would not alter the perception of the scale of the landscape, or the character of the whole of the Mull area. Against this, the environmental statement shows that the wind farm could be visible to blade tip across a significant amount of both humps in this southern landscape, all of which is inside an area of some 15 kilometres from the site. As a result, although the degree of impact is inevitably most pronounced across the closest, eastern hump, this more extensive zone of influence suggests that the diminishment with distance would not be quite as beneficial as the appellant argues.

16. As regards scale, the appeal site straddles 3 adjoining hills and, using information from the Ordnance Survey, these peak at 201 metres, 186 metres and 181 metres Above Ordnance Datum. The hills would accommodate 6, 4 and 6 proposed turbines and the maximum projection above the hilltop to turbine blade tip would be as follows:

- the highest, most northerly hill would have 1 turbine positioned almost at the top projecting some 80 metres;
- Tod Hill in the middle would have 1 turbine at the top projecting about 81 metres; and
- the last hill would have 1 turbine at about the 175 contour line projecting about 75 metres.

In each case the minimum turbine projection would be between 45 and 50 metres, with the rest coming somewhere in between. Therefore, in views from the south and the low coastal

hills landscape character type where ground levels are mostly much less than 100 metres Above Ordnance Datum, the proposed wind farm would be contrasting, tall and obvious. The wind farm would also be seen in silhouette along open skyline over an important backdrop to the coastal fringe. Further, the landscape would not enclose and absorb the wind farm from this southerly direction and the scale described above would exceed the comparative scale of the surrounding landscape character types to a significant degree. I appreciate that the wind farm needs an exposed location to function efficiently. In addition, the size of turbines proposed for the site is much smaller than has been used elsewhere, but the scale remains such that the wind farm would not integrate into the landscape surroundings, so that it would damage the local landscape character.

17. In response, the appellant argues that the wind farm would not be entirely out of accord by virtue of other tall structures in the area such as communications masts, as well as other wind farms along Kintyre. The few communication masts that I noted are not so obvious or in such prominent and clustered locations as the proposed wind farm would be. Further, as described above, the north area of Kintyre above the Campbeltown plain is significantly different to the appeal site surroundings despite being in the same general landscape character type. The nearest wind farm in northern Kintyre is at Tangy, which is on the north edge of high ground above the Machrihanish plain. As stated above, the plain is highly urbanised, so that it represents an entirely different character of environment to the appeal site. For these reasons, I find little value in the comparisons.

18. Therefore, while the landscape character of the area is generally as the environmental statements describe, I find that marked differences from the rest of Kintyre become obvious as the particular site surroundings are analysed in greater and more localised detail. These differences are significant because they mean that the landscape could not absorb the proposed wind farm without obvious change and substantial harm to character. All of the proposed turbines would also project between about 80 and 45 metres in the skyline above the site hilltops, which is considerably higher again than the low coastal hilltops. As a result, the proposal would not achieve an acceptable degree of landscape integration because of the degree of projection above the site hilltops as compared to the low-lying adjacent landscape character types, and it would be out of scale with its surroundings. These effects would be worst at short range, but they would still impact on the whole of the southern portion of Kintyre around the Mull area.

Area of Panoramic Quality

19. The adopted local plan glossary confirms that the landscape quality of the Areas of Panoramic Quality is of regional importance, having previously been identified as 'Regional Scenic Areas' in the approved Strathclyde Structure Plan. This same kind of designation was carried forward into Argyll and Bute's development plan, where appendix A in the adopted local plan states that the Areas of Panoramic Quality amount to some of the UK's finest landscapes and natural heritage areas. As such, the appendix states that they are an important part of Argyll and Bute's identity and of national importance. Given this well-established background and the high degree of exposure of the affected landscape to other local authority areas around the Firth of Clyde, I find that the designation is more than of just the local significance that the appellant suggests. That position is endorsed to some

extent by national planning policy because the SPP states that areas designated for their regional and local landscape or natural heritage value are areas where constraints might apply and a more cautious approach to wind farm development is justified (paragraph 190).

20. The supporting local plan text for policy LP ENV 10 states that the Areas of Panoramic Quality are important not only for their physical landforms and natural heritage value, but also because they represent environmental assets. The plan protects these qualities because they could easily be destroyed or damaged by even a relatively small, insensitive development. An Area of Panoramic Quality must not be scarred or have its identity diluted by insensitive development. To achieve that, the plan requires that all significant developments within or impacting on these designated areas will be assessed for compatibility with present landscape character as detailed in the SNH Landscape Character Assessment. The appellant argues that, for the same reasons as the proposed wind farm would not harm landscape character, it would also not undermine the essential purpose of the Area of Panoramic Quality designation. It follows from my above landscape character conclusions that I consider the proposed wind farm would impact on the landscape character of the south area of Kintyre to a significant and harmful degree, whereby it would also damage the quality and essential value of the Area of Panoramic Quality.

21. Although the comparative value of the Area of Panoramic Quality and the importance of conserving it, as compared to that of generating renewable energy, is to some degree a subjective judgement, the designation stems from the development plan where it has been applied consistently for some considerable time. As a result, the designation has a high value, local residents are entitled to expect that it would remain at least for the life of this development plan, and any major change or deletion should be the product of due and considered planning process not decisions on individual development proposals.

Visual amenity

22. Turning then to consider visual amenity, the potential for a harmful cumulative visual impact with other wind farms in and around the rest of Argyll and Bute is restricted by the:

- narrow peninsular character of Kintyre;
- higher ground to the north, between the site and Campbeltown;
- considerable intervening distances between the site and the nearest wind farm sites;
- essential landscape character differences between north and south Kintyre; and
- the high degree of visual and physical separation that these factors combine to create.

As a result, the area around the appeal site is generally not affected by views of these other wind farms and it tends not to be seen with them other than in the most distant of views. These factors also limit the extent and frequency of potential visibility of Kilchattan for most people from that northerly direction, but equally, they underline my view that the proposal would be a new intervention in a distinctive and discrete local area.

23. The purpose of selecting viewpoints from inside the zone of theoretical visibility in the environmental statements is to test the expected outcomes, and thereby to predict the visual impact of the wind farm more precisely. The appellant's submissions assess the

visual impact of the proposal from a total of 23 viewpoints, as well as sequentially from along roads and the Kintyre Way footpath. This assessment concludes that 4 of the original 15 viewpoints would experience a very large or high magnitude of effect, of major significance. A further 5 viewpoints are ranked as medium magnitude of effect and of major or moderate significance. Of the 8 extra viewpoints that were added later, the environmental statement concludes that 4 would experience a large or very large magnitude of effect, which would be of major or moderate significance. A further 2 are ranked as moderate in both respects. Taken together, these results confirm that the impact for 15 viewpoints from 23 would be significant, and that large areas would be affected by the proposed wind farm.

24. The 15 original viewpoints were widespread, with 9 situated farther than 5 kilometres from the site. To some extent, this was later corrected with the inclusion of the 8 extra viewpoints, of which 6 were at or inside the 5 kilometre zone. It is generally accepted that 5 kilometres is broadly the distance within which an average wind farm is likely to be prominent. The distance from there out to 15 kilometres is where an average wind farm is likely to be prominent in clear visibility. In this case, that zone includes the entire southern portion of Kintyre and much of the surrounding sea.

25. There are numerous additional locations where the wind farm would be visible, but it would be wrong to expect that all should be covered and the chosen locations were agreed with the council and SNH. However, comparing the locations to the zone of theoretical visibility, as well as to my experience of travelling around the area, I found significant parts of the zone that were not incorporated. For example, the majority of the viewpoints were outwith the southern aspect of the wind farm in the area east of Southend, yet the predictions show that the greatest visual impact would be felt across this area of low coastal hills, between the higher ground around the site and the shore by Southend.

26. Another significant omission is the rocky mosaic valley to the west, from where people travelling south along the B842 main access road towards the end of Kintyre and the community of Southend, would almost certainly see the wind farm more often and more repeatedly than the viewpoints imply. The size of the wind farm would also grow progressively as the site draws closer, as would its consequential visual impact. Likewise, the wind farm would be more visible to people travelling along the Mull access road than the viewpoints indicate. Visibility would be greatest from high ground and the range would be about 11 kilometres. Because of the Mull's cultural significance, it is a particular attraction. The end of the Kintyre peninsula is also a definite destination. For all of these reasons, it is highly likely that many people will journey along both of these routes, in some cases comparatively often. The viewpoints under-represent the impact of these regular, repeated and increasing views, albeit that each one might have individual mitigating factors.

27. Clearly the landscape of Kintyre is unusual because it comprises a long, narrow peninsula that projects out into open sea. The zone of theoretical visibility includes this large expanse of sea, including a large area inside the 15 kilometre ring, but only one viewpoint shows the sea impact, and only then from the east. As a result, the environmental statement under-represents the visual impact from the sea to the south and west, where the degree of exposure would be far greater than the east viewpoint implies.

The flat surrounding seascape in the roughly 300 degree visibility arc around the Mull also contrasts very significantly with, and therefore emphasises, the height and solidity of the landform, as well as the even greater height and projection of any new man-made wind farm structure that might be added to its skyline. In this respect, the southern end of Kintyre is again not like the northern ridge type landscape between Campbeltown and Tarbert, where the hills relate more closely to others in the wider area, for example on Arran and along Loch Fyne. The impact on sea views would be offset because fewer people might potentially be affected than on-shore. However, even the east viewpoint shows that the wind farm would be highly visible and very prominent against the skyline.

28. By its very nature, a wind farm cannot avoid having an impact on its host landscape. However, the above indicates the extent to which the wind farm would be seen more frequently and at comparatively close range as a dominant composition of tall, man-made moving features on the skyline than the combined viewpoints in the environmental statement suggest. Using my experience to judge how I think the proposal might be seen and perceived in the context of established landscapes and existing features, I consider that for all of the above reasons, the visual impact of this proposed wind farm would be considerable, including from the highly exposed seaward directions. From many important locations on and off shore the wind farm would look out of place against a landmark landscape that I have described above as iconic. The wind farm would also contrast and be highly visible, especially in clear weather, so that it would have a significantly negative visual impact. The appellant argues that the harm only occurs because the viewpoints are so close to the wind farm. Given the peninsular character of Kintyre, I consider that this immediate local area assumes considerable importance. Put simply, people and the wind farm would be concentrated onto the same small, restricted land mass whereby there would be limited options and spaces available to escape the visual effects of the wind farm. To me, this worsens the significance of the already poor visual effect.

Residential amenity

29. Amenity impacts for local residents require particular attention because such people tend to see a wind farm:

- from a wider range of locations;
- in different weather conditions; and
- more often and at different times of the day, as well as seasons.

Residents also tend to stay for longer periods of time in places where they are exposed to views and they are far more familiar with, and place a very high value on their enjoyment of, an established and accustomed landscape. Because of all that, change is more noticeable and it tends to have a more immediate and dramatic impact on residential, as compared to general, amenity. SNH's guidance reflects this by stating that it is important that wind farms should not dominate or affect settlements negatively.

30. The low coastal hills area to the south of and below this proposed wind farm site contains the village of Southend, along with many outlying houses that are located sporadically and in clusters, such as at Mill Park, Macharioch and Benton/Polliwilline. The

environmental statement attempts to quantify and predict the impact for the amenity of 65 of these houses but there are unexplained inconsistencies in the conclusions about the severity of impact that the houses might expect. For example, 19 of the assessed houses are no more than 2.5 kilometres from the site. The rest are within 5 kilometres where, as stated above, wind farm visibility is generally accepted as prominent. Despite this, the assessment suggests that only 4 houses merit a red classification for most significant effects. This outcome may stem from the clarification in the appeal submissions that the assessment is based on the use of public viewpoints as close to each of these houses as possible, and then on largely unconfirmed assumptions about internal layouts and the use of rooms. In addition, limited importance seems to have been given to the impact of the proposal on the enjoyment of surrounding gardens. These are all important shortcomings that weaken the value of the assessment and, taken together, they suggest that harm to residential amenity could be worse than the appellant assumes.

31. The assessment predicts that houses at Langholm and Chisken would experience highly significant effects. Based on my site inspections, I find that other houses along the minor road past the appeal site, including at Kildavie and Benton could expect impacts that would be every bit as severe, yet they have been attributed a lower impact rating. Viewpoints 14 and 15, by Langholm and Chisken respectively, illustrate the significant extent to which the wind farm would more than likely dominate the outlook and amenity of all of the houses in that immediate vicinity of the proposed wind farm.

32. Another location predicted to suffer a highly significant impact is to the north of the site, by Kerranbeg and Glenmucklach. These houses are at very close range but the viewpoint 21 photographs show the impact at Kerranbeg in particular, offset to a large degree by mature plantation forest. Other houses nearby and along the B842 also benefit from the same tree screen. I noted at my site inspections that other parts of this same plantation have been felled comparatively recently, for example by Cnoc Dubh. As a result, it seems reasonable to assume that more of the plantation might be felled within the 25 year life of the proposed wind farm. If the forest were to be cropped in this way, these houses would suffer a far greater and very considerable degree of close range exposure.

33. As stated above, the visual impact assessment omits viewpoints from much of the low coastal hills area to the east of Southend. This omission affects the area around Blasthill, where a significant number of houses are located about 3 kilometres from the site, i.e. well within the 5 kilometre prominence zone. The houses at each end of the road past Blasthill would have direct views north to the site, albeit from their back elevations. Based on the photographs for nearby viewpoints 22, 14 and 15, as well as the wireframes submitted to help predict visual impacts for the historic environment around Macharich, the turbines would be visible at very close range from this area. From all this evidence, I am satisfied that these houses would experience significant visual disturbance and harm.

34. Other houses similarly omitted from the assessment include at least 5 at Cattadale between viewpoint 5 and the B842, as well as all of Southend village. For Southend, Teapot Lane is a particular omission because houses there tend to orientate towards the wind farm site. The houses at both these locations are inside the 5 kilometre ring and my

site visits indicate that they would more than likely experience a disruptive degree of close range wind farm visibility.

35. In planning terms, it is generally not appropriate for the protection of individual private views to outweigh the public interest that is inherent in the generation of more electricity from renewable resources. However, the collective impact of this proposal on so many houses nearby increases the significance of the loss of residential amenity. For the reasons set out above, I consider that the appellant's assessment under-represents the harmful impact for residents in the area, a significant number of whom will see the whole wind farm against the skyline at close proximity above them. As a result, residents throughout the local area would have their amenity and quality of life dominated and diminished by the proposed wind farm to a degree that I regard as unacceptable.

Natural heritage

36. The submissions show that although the proposed wind farm site is not formally designated as having particular natural heritage value, a wide range of birds, animals and plant species are known to inhabit or frequent it and the surroundings. For birds in particular, there is no dispute that a wide variety of species make extensive and frequent use of the area, including for breeding and feeding. For most of this biodiversity, the environmental statements show that the impact of the proposed wind farm is not likely to be severe, or it can be mitigated by careful restoration and the implementation of a habitat management plan. Subject to this, the proposal could represent a conservation and ecological gain for some species, including through the creation of better feeding and more attractive breeding habitats. In the main, these conclusions have been accepted by the council, SNH and the RSPB. However, the area around the proposed site also potentially supports endangered species of particular conservation importance and sensitivity to wind farms. Chiefly, these are hen harriers and black grouse, both of which are protected under European and UK law. Because of that, planning permission should only be granted if it is clear that the wind farm would not impact adversely on those species.

37. The survey results in the appellant's original environmental statement record one breeding pair of hen harriers in the study area, and none within 300 metres of the site. In addition, 3 breeding pairs of black grouse are noted, 2 of which are in the 300 metre zone. Both species were also recorded as flying over the site but only 2% of hen harriers were at an average rotor height, rising to 7% in the breeding season. For black grouse, the corresponding percentages were much higher. The environmental statement then concludes that hen harriers would be highly sensitive to the proposal all year, whereas black grouse would be of medium sensitivity. The study area was altered slightly for the second environmental statement, whereby the breeding populations of black grouse stayed the same but hen harrier numbers dropped. The flight rates at average rotor blade height recorded for hen harriers during the 2008 breeding season also stayed the same in the new survey, but rose to 4% during the winter phase. For black grouse, the adjusted figures were zero percent across both seasons.

38. The appellant then used this information to predict a collision risk rate for hen harriers of 0.013 or 0.02% overall. This risk was regarded as insignificant and as

equivalent to one in every 50 years, or an increase of only 0.03% over the generally accepted normal mortality rate. Over the proposed 25 years lifespan of the wind farm, the rate would rise to 0.5, which the appellant still regards as negligible and not significant. Further, because the recorded populations are so small, the predicted collision risk could not become significant even if the size of the buffer zone were to be extended. The risk for black grouse would be even smaller, subject to the appellant's declared intention that power lines would be placed underground, and that easily achievable safeguards would be put in place for structures such as mast guys and fences. These risk evaluations did not alter much in the second environmental statement, but hen harriers were noted as observed foraging regularly in winter, when 2 roosts were also recorded. The statement also noted that this activity could be discouraged by the wind farm, depending on the importance of the wind farm site as a food source and the alternative sources available in the wider area.

39. Considering all of the appellant's submitted information, SNH and RSPB appear to accept that the proposal would have no impact for the regional population of black grouse, and there is potential for enhancement for that particular species. However, both are concerned that insufficient information had been supplied to assess the impact of the proposed wind farm for hen harriers and to show that the proposal would not harm the favourable conservation status of this protected species. In particular, this is because the survey methods used do not comply with the relevant guidelines. SNH and the RSPB are especially concerned that:

- (a) An important part of the year is missing from the data. Viewpoint watches should cover 2 complete breeding seasons and that level of necessary detail has not been provided. Only April to July was surveyed in 2008, yet May to September should have been covered. August and September are an especially important time because juvenile hen harriers are dispersing.
- (b) The vantage point survey watches recorded in the second environmental statement were too long, without enough or long enough breaks. Because of this, the accuracy of the records might be undermined by reduced observer acuity.
- (c) Watches were too close together, which blurs the outcomes and thereby also the predictions arising. The need to separate the watches by much longer breaks is crucial to the assumptions that underpin the applied statistical test, about which SNH also has reservations.
- (d) A representative sample of daytime hen harrier flight activity has not been presented, which introduces even more unnecessary and unaccounted bias.

40. In response, the appellant is very firmly of the view that the survey work was done in accordance with the SNH guidance applicable at the time, and by a very experienced and competent consultant with a specialism in hen harriers. The appellant also notes that SNH's own survey work recorded 9 breeding pairs of hen harriers in Dalbuie Forest in 2008. From that, 4 pairs were potentially nesting inside 2 kilometres of the wind farm site. But the scale and level of detail in the information that SNH passed on prevented accurate identification of these nesting locations. The information also left uncertain whether these were proven nesting sites or just observations of adult birds that might be in a breeding habitat. That said, the number of pairs in the forest is certainly no more than 4, which is the threshold above which the population assumes regional importance. But even if these

numbers are wrong, it is not credible for a difference to affect the outcome of the assessment because greater use of the site by hen harriers could not possibly have occurred to such an extent that the conclusions would change. In addition, while the appellant does not dispute the number of breeding pairs recorded in the whole of Dalbuie Forest, none occupy the site or the critical 2 kilometres around it. Further, the simple fact of presence in an area does not indicate a level of use inside the 'at risk zone' around the wind farm; it is use that helps predict the potential collision risk. Therefore, the impact of the wind farm for hen harriers must still be not significant and the appellant's prediction remains that the proposed wind farm is not likely to harm the favourable conservation status of the species, which status means that numbers are healthy and not in decline. That outcome also means that the proposal would not stop the species from recovering to that level, either regionally or more widely.

41. SNH states that hen harriers habitually nest in forests and, while their foraging range is usually up to 2 kilometres, it could extend to much as 8 to 10 kilometres. The submitted evidence confirms male and female range areas of 7.3 and 7.2 square kilometres respectively. For the appeal site, because most of that range is also forest as opposed to the necessary moorland like the appeal site, it is highly likely that the birds will forage farther regularly. The peninsula land mass also constrains the amount of foraging space currently available in the range. Therefore, not only might there be more foraging use across the site than has been indicated, but the site might also be a key resource. There is moorland near Dalbuie that is a better food source than the appeal site, but at only 70 hectares, it is not enough to sustain even one breeding pair, let alone the 9 that SNH recorded. Further, the appellant recorded 57 flights in two thirds of a year and, since hen harriers are rare, that number is of considerable magnitude. Accordingly, the site must have significant foraging value and SNH is concerned that the appellant has not quantified that, or the displacement implications of its loss in terms of reduced chick productivity and birds removing from the area entirely.

42. RSPB believes that the wind farm site supports a regionally important population and the adjoining Dalbuie Forest supports a nationally important population. The second environmental statement describes regular foraging flights in winter, but because numbers were not recorded, the impact for hen harriers may have been under-estimated. The extent to which forest and moorland habitats can be separated is debatable, and it is affected by forest management. Tree felling could cause breeding birds to move out onto the open moorland of the site, which could increase use of the wind farm site as well as the consequent collision risk. Given the numbers recorded by SNH, these displacement outcomes are entirely feasible. Therefore, the site could be of much greater importance than the appellant suggests and the collision risk could have been under-estimated.

43. The appellant states that because there were no nesting hen harriers recorded within 500 metres of the turbine locations, displacement of nesting birds is not an issue. Some small scale displacement of foraging birds may occur, but the data from the 2005 and 2008 surveys agree that the site is not that well-used, especially in comparison to with others nearby. This is mainly because the nature of the heather growth is different and the site is currently grazed, which means that it is not ideal foraging habitat for hen harriers. Further, even if that low-level use were to be reduced, the loss would be off-set by the intended

habitat management plan with enhancement benefits, so that again the level of risk would remain negligible and not significant. The aim of the habitat management plan would be to maintain grazing across the site to continue to discourage use. In addition, enhancement would include creating better nesting and foraging by managing the moorland habitat elsewhere, by planting more favourable vegetation and reducing predation. All this would attract hen harriers away from the site and from any potential risk from the wind farm, but because the measures are not mitigation, they represent gain and they should overcome SNH and RSPB concerns about displacement.

44. I find no doubt that SNH categorises Argyll West and the Islands as a stronghold for hen harriers because it contains some 100 to 150 breeding pairs from a Scottish population of 489 breeding pairs recorded in 2010. Most of these pairs live on the islands, but survey data from 2008 suggests that the mainland population is about 15 to 40 pairs. Against these figures, the 9 pairs that SNH's commissioned survey from May/June/July 2008 recorded in Dalbuie Forest is significant, regionally and nationally. From there, parties then dispute the number of breeding pairs in and close by the site. I find it highly probable that the site itself is not currently used for breeding, although the surrounding area is. In turn, that means that the site will inevitably support some degree of foraging by those hen harriers that breed in the surroundings, but there is another dispute over the intensity, frequency and value of this. In other words, over the extent to which hen harriers rely on the site for that purpose. The appellant's assumed degree of use is reflected in the predicted collision risk, which is very small. While that risk would probably stay comparatively small, even if greater numbers of hen harriers were to use the site, that conclusion is not supported by quantifiable evidence.

45. SNH and appellant also disagree completely over related fundamentals such as whether the vegetation on Tod Hill is attractive for hen harriers at all, and whether the appeal site is grazed or not. This dispute again relates to the major issue of the role and value of the site as a foraging resource in supporting the local population of hen harriers. In turn, that also determines the potential for any loss of that resource to affect the favourable conservation status of the protected species. I have been unable to quantify the amount of use of the site from the available evidence to support a conclusion about the site's comparative importance. If SNH and the RSPB are right and the site has more value than the appellant states, then it seems highly likely that birds would be displaced and the local population would be prejudiced.

46. There is yet more disagreement over the potential for a habitat management plan to redress these issues or to enhance the favourable status of the local hen harrier population. Although the appellant provided examples of habitat management plans, these were only given extremely late in the appeal process and they contained no details specific to this particular site. Further, like SNH, I found the ability to enhance the habitat for hen harriers, and thereby to prevent displacement, hard to understand. This was yet again because of the unknown potential for the proposal to produce a net loss of an important foraging resource and the consequent impact of that loss on the rates of survival and productivity. RSPB added that habitat management could help, if it could discourage use of the site by hen harriers. But that would probably still represent displacement, again depending on the unknown of current usage.

47. I find it extremely concerning that the appellant and SNH with the RSPB have produced such very different conclusions based on widely varying results from surveys undertaken at broadly the same time. The reasons for those differences have not been adequately explained, but they may well result from the dispute over methods, ranges and foraging habits. There can be no doubt that the outcomes in the impact assessment rely entirely on the quality of the data collected for input. Because of all of the above, I find the results are unreliable, so the appellant's findings about impact on the security of the species may very well have been under-valued. The Kintyre peninsula will currently offer a finite foraging resource, which means that any favourable conditions on the appeal site must be an important component. It follows from this, that developing the site would reduce the value of that component and the current potential for birds to find enough suitable compensatory foraging elsewhere within range of the Dalbuie Forest nests. Similarly, the limited land supply of Kintyre affects the appellant's ability to create favourable foraging conditions elsewhere in the relevant range. All of this leads to the following conclusions:

- that the site important in maintaining overall hen harrier population numbers;
- that any displacement of hen harriers caused by the proposed wind farm might not be able to be adequately compensated; and
- that the ability to attract birds away from even the small collision risk at the proposed wind farm site must also be constrained.

Under these circumstances, and because the evidence is so fundamentally contradictory, I have no good scientific grounds for believing that significant, irreversible harm would not be caused to this population of a protected bird species. I am equally not able to be certain that this harm could be mitigated. In this vacuum, a precautionary approach should apply because there is significant potential for the proposal to reduce the favourable conservation status of hen harriers locally and in Argyll.

Built heritage

48. Given the amenity concerns that I have set out above, it follows that I am also very concerned about the degree of change and disruption that the proposal would more than likely provoke for the setting and appreciation of the many nationally important elements of built heritage that the area contains.

49. My concerns relate especially to the area south of the site, where there is a significant number of listed buildings and scheduled monuments. For example, the scheduled monuments at Blasthill and Dunaverty Castle are located in this area and each sits high and exposed amongst lower lying surroundings. The environmental statements indicate that each would experience a significant visual impact were the wind farm to proceed. However, Historic Scotland accepts the predicted impact of the proposal for all of this built heritage and the council agrees with that opinion. Against this, I have insufficient robust, systematic evidence about the significance, collective importance and potential impact for these monuments and listed buildings to justify refusing planning permission on these grounds alone. Nevertheless, had my conclusions on other matters been different, the issue of impact on the historic environment would have required closer consideration.

In particular, under those different circumstances, I would have raised concerns about apparent inconsistencies and omissions in the appellant's assessment. For example:

- (a) Appendix 8.3 from the original 2008 environmental statement lists a scheduled monument at Kilellan, but the relevant map (figure 8.3) might also show a listed building there that is not mentioned in the appendix (item number 4919);
- (b) Kilchenzie Church is shown on figure 8.3 as a listed building but it is referred to as a scheduled monument in the appendix;
- (c) Carskey House may have been numbered and described incorrectly once in appendix 8.3;
- (d) The Mull of Kintyre lighthouse may be a listed building and it is inside the 15 kilometre zone where other listed buildings feature. Despite this, the lighthouse is not mentioned in either appendix 8.3 or figure 8.3;
- (e) For Blasthill Long Cairn, the grid references and distances given in appendix 8.3 are different to those in figure 8.5, which is the associated wireframe assessment. The stated wireframe grid references match figure 8.8 for Gleneherve Fort and its appendix entry;
- (f) The wireframe assessments seem to cover those built heritage features where an impact of major significance is predicted, but the dun at Dun Glas, by Mill Park (Item number 3286 from appendix 8.3) is not the subject of a wireframe. This is despite the appendix noting them all as having the same predicted degree of impact at around the same distance from the site;
- (g) Macharioch House listed building is predicted to experience a medium magnitude of effect, but only of low significance. All other built heritage features in the appendix where a medium effect is predicted are categorised as having major impacts. The difference with Macharioch House seems to be unexplained;
- (h) Likewise, Macharioch House and Lodge are assessed and categorised as completely different, yet I could see no obvious reason for this at my site inspections; and
- (i) The scheduled monuments at Macharioch are all categorised as major whereas the listed buildings are not. Again, the reason for this is unclear.

The implications of these discrepancies for the outcome of the overall impact assessment are uncertain, but together, they cast doubt on its reliability and they undermine the validity of the resultant positive conclusions in the environmental statements.

Community and socio-economic benefit

50. The appellant has offered to contribute to a community fund to benefit the local area, but the sums of money involved seem to vary between the environmental statement and the appeal statement. Therefore, I am left in doubt as to the precise amount that this benefit might represent. Despite this, it is a generally accepted principle that the planning system should not be used to trade for benefits or payments from developers that are not directly related to a proposed development. Circular 1/2010 "Planning Agreements" clearly states that in reaching decisions, no weight should be attached to offers made to undertake works, donate monies, or other incentives, including contributions to community trust funds that do not meet this test of necessity. Quite specifically, in reaching decisions on

applications for planning permission, planning authorities should not attach any weight to financial offers (paragraph 17).

51. That said, a wind farm may still represent an economic benefit to the community and the appeal submissions envisage that this might arise from job creation and local expenditure, albeit that the level and significance of each will vary through the construction, operation, and decommissioning phases. While there may well be direct and indirect employment advantages during construction if the right skills are available locally, no quantifiable evidence has been submitted to confirm that. The appellant may also hope that equipment, including turbine components, can be sourced and manufactured locally, but again I find no guarantee of this. Whether or not significant economic advantage can be achieved depends entirely on availability, pricing and the company's potentially changeable tendering process. It would be inappropriate for the planning system to seek to fetter that response. Next, the environmental statement confirms that wind farms do not produce significant employment or expenditure benefits while they are in operation. Generally, only a small and occasional specialist maintenance crew is required. Therefore, although the environmental statement gives a best estimate as to what the overall level of economic benefit arising from the proposal might be, the figures involved can be regarded as no more reliable than that.

52. Some spin-off benefits would undoubtedly result, but they risk being offset by a loss of tourism to the economy, which must be regarded as an important part of the overall equation. There are 2 potential reasons for this possible loss; firstly, incoming construction and other workers might take up most of the local supply of available tourist bed spaces for long periods of time. During that time, tourists would become marginalised and possibly also excluded from the area, whereby they might well move elsewhere and lose the habit of visiting this part of Kintyre.

53. It is undisputed that tourism is a major contributor to the economy of Kintyre and Southend. It is also undisputed that visitors come to this area for its high quality, exceptional landscape and natural environment, as well as for its cultural interest and activities like long-distance walking via the Kintyre Way. Southend in particular offers various grades of accommodation, caravan sites, catering, golfing and beach access. All of these are important interconnected attractions that support and encourage recreation and tourism, as well as the local community's amenity and economy. The submitted evidence also shows recent significant investment in this sector to stimulate growth, but it is very divided over whether wind farms might be seen to detract from the visitor experience that so many tourists come to enjoy.

54. The relationship between wind farms and tourism not simple. Generalised studies tend to find that any impact is small, but increasingly, these studies are of some vintage. The reports produced by the appellant are dated 2003. The original environmental statement refers to others, but even there the most recent is noted as 2007, so the opinions expressed may be out of date, especially bearing in mind how much the industry has changed and grown since then. In contrast, local surveys tend to show that the people interviewed feel differently, and more strongly against. The objectors' submitted survey for this case confirms that. There are reasons for this disparity, which include the way that

people and the questions are targeted. A local survey also tends to relate more specifically to a particular and valued landscape. However, public attitudes to wind farms are extremely polarised, so that it seems likely that at least some visitors would be put off visiting the southern part of Kintyre by a wind farm, especially if they perceive that it has spoiled the area's landscape and natural heritage character that they value. Against that, it is uncertain whether the loss would be offset to any extent by a corresponding level of visitor attraction, which would produce no overall net loss of tourism for the area. That seems unlikely as wind farms are becoming increasingly common.

55. Therefore, on the one hand, national planning policy in SPP confirms that there are advantages to be gained for Scotland as a whole from increased energy production from renewable sources. In addition, there would be some economic benefit to the local community and I find no firm evidence to support a conclusion that the proposal would have a significantly negative effect on local tourism. But on the other hand, tourism in the south Kintyre area is very closely linked to landscape and the environment and I have concluded above that both would be harmed by the proposed wind farm. In particular, the recreation and tourist facilities at Southend would be in the coastal hills area that I consider would be most affected by the negative visual impact of the proposed wind farm. Because of all this, I have been unable to reach a definitive conclusion, but it seems to me that in this case, the advantages are not sufficient or certain enough to outweigh these other important concerns.

Overall conclusions

56. The proposed wind farm would increase the amount of electricity generated from a renewable source so it is supported by the general encouragement that the Scottish Government gives to renewable energy projects in pursuit of its climate change targets. However, that support is not unconditional and it relies upon the proposal satisfying a range of criteria, which in this case accord with the requirements of the various development plan policies that I have summarised above.

57. Against these joint criteria, compliance with requirement to protect of the area's built heritage is generally not disputed, but the robustness of that view may be undermined by uncertainties in the supporting evidence that has been submitted. Likewise, the evidence about community benefit and economic gain, which contains areas of significant doubt and is influenced by matters that are beyond planning control. As regards environmental matters, based on all of the above, I have concluded that this proposed wind farm:

- would not reflect the character of the landscape;
- would not minimise its visual impact on the landscape of this highly sensitive site;
- would result in a significant loss of visual and residential amenity for the area, especially for the village of Southend and the surrounding houses; and
- the evidence does not establish clearly that the wind farm would not prejudice the continued viability of a population of protected hen harriers in this regional stronghold.

58. Therefore, for all of these reasons, I regard the proposal as contrary the development plan policies that cover these highly significant issues, as well as in turn to the related parts of national planning policy in the SPP. The shortcomings are to some extent

offset by the potential benefits of the proposal. However, I am satisfied that in this case, the balance in favour does not outweigh the potential for this extremely sensitive location to suffer unacceptably severe negative effects if the proposed wind farm were to proceed.

Jill Moody

Reporter