

Our ref: PCS/168495
Your ref: G/P/661694/04/10/03

If telephoning ask for:
Aden McCorkell

29 November 2019

Mark Ashton
Energy Consents Unit
The Scottish Government
Edinburgh

By email only to: Econsents_admin@gov.scot

Dear Mr Ashton

The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

Planning application: G/P/661694/04/10/03

Kirkan Wind Farm

Located 5.8km northwest of Garve, Highlands, on the southern side of the A835 trunk road southeast of Loch Glascarnoch Dam

Thank you for your consultation email which SEPA received on 4 November 2019.

Advice for the planning authority

Unfortunately we must **maintain our objection** on the grounds of impacts on peat and carbon, and ask that further information is supplied on the peat depths located at Turbine 7. We ask that the planning **conditions** in Section 1.1, 2.3, 2.4 and 3.1 be attached to the consent. If any of these will not be applied, then please consider this representation as an **objection**. Please also note the advice provided below.

1. Site layout

- 1.1 As outlined in our letter dated 31 July 2019 (PCS/166661), we request that details of the battery storage area are submitted by **condition** prior to any works commencing. The battery storage area should be shown on a site plan with appropriate bunding and drainage. Accompanying, or annotated on, the site plan should be details on the environmental risks (and specific contaminants) associated with battery storage (i.e. spills, leaks etc.) and how these will be appropriately mitigated. We note that we have seen oil interceptors being used on other sites; however it is not clear whether an oil interceptor would treat contaminants leaking from batteries.

2. Impacts on peat

- 2.1 We welcome that the access track to Turbine 2 has been re-designed to avoid the area of deep peat.
- 2.2 We previously asked that the locations of Turbines 5, 7 and 16 be amended to minimise impacts on the deepest areas of peat:
- **Turbine 5:** We note that Turbine 5 has been shifted to the east side of the peat probe location with a depth of 96cm, which minimises impacts on deep peat over 1m. However, we do note that this could have been minimised further by simply going east by a few metres more.
 - **Turbine 7:** We must **maintain our objection** to the location of Turbine 7 and ask that a site plan of the peat probe locations and infrastructure located at Turbine 7 be submitted at a more detailed scale, as it is not clear using the peat probe depths as references whether the infrastructure has been repositioned. We previously asked that the turbine be relocated 50-70m north into shallower peat (56 and 27cm depths as opposed depths of 1-2m).
 - **Turbine 16:** We welcome that the access track design and turbine location has been amended and avoids areas of deep peat.
- 2.3 Once further information is submitted on Turbine 7, we would request that a **condition** is applied to any grant of consent for micro-siting not to exceed 50m and that this limit be only acceptable in areas of equal or lesser peat depths.
- 2.4 As we previously requested, we ask that all points covered under Section 3.3 of our previous response of 22 May 2019 (PCS/164876) be adopted into the Peat Management Plan by **condition** and provided to SEPA prior to the commencement of any works. We usually like to see this information upfront at the planning stage, as in our experience, leaving this to the discharge of conditions can hold up the commencement of construction. Therefore, we would strongly encourage the applicant to share drafts of the Peat Management Plan well in advance to ensure that any issues are resolved prior to formally submitting for the discharge of the condition.

3. Borrow pit restoration

- 3.1 We note that Section 2.28 of the Supplementary Environmental Information states that “The balance between peat used for peatland restoration and borrow pit restoration would be determined on the ground, following assessment of the peatland areas that would benefit most from restoration works.” To be clear we would expect details of peatland restoration to be provided in the finalised Peat Management Plan – as asked for by condition in Section 2.4 above, and as previously stated in our response of 31 July 2019 (PCS/166661), further information on the restoration of the borrow pits is required. We ask that the following information is submitted by **condition** with any grant of consent:
- While we welcome the plans for borrow pit restoration and the use of cell bunds to secure stability and sequential restoration, the use of corrugated plastic sheeting in the creation of the cell bund walls is not appropriate. These plastic sheets are utilised in peatland restoration for ditch blocking and can be easily removed from the environment, while the restoration cells will be permanent and buried structures. As an alternative to plastic, the cell bunds must be made of appropriately graded aggregate or non-peat overburden from the site. The material used should be graded finely enough that it will not permit wet peat and water to easily leak through. Details of the construction and materials used should therefore accompany the borrow pit restoration plans by condition.

- In Section 4.1 of the applicant's email, dated 18 July 2019, it states that "the reprofiled aggregate material would have topsoil placed as a layer across the surface to encourage revegetation". We assume this statement is specific to the back wall of the borrow pit, but to avoid any doubt, topsoil and aggregates should not be mixed with peat or layered together (with the exception of the bunds to secure catotelmic peat). This must be clarified in the finalised borrow pit restoration plans.

Regulatory advice for the applicant

4. Regulatory requirements

- 4.1 Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).
- 4.2 Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012.
- 4.3 A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:
- is more than 4 hectares,
 - is in excess of 5km, or
 - includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25°
- See SEPA's [Sector Specific Guidance: Construction Sites \(WAT-SG-75\)](#) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.
- 4.4 Below these thresholds you will need to comply with [CAR General Binding Rule 10](#) which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.
- 4.5 Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at: Graesser House, Fodderty Way, Dingwall Business Park, Dingwall IV15 9XB Tel: 01349 862021.

If you have any queries relating to this letter, please contact me by telephone on 01349 860353 or e-mail at planning.dingwall@sepa.org.uk.

Yours sincerely

Aden McCorkell
Part time Senior/Planning Officer
Planning Service

ECopy to: MKelly@rsk.co.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).