

Energy and Climate Change Directorate  
Electricity Division

T: 0300 244 1252  
E: frances.pacitti@scotland.gsi.gov.uk



Clare Hamilton  
Scottish Power Renewables (UK) Limited  
4<sup>th</sup> Floor  
1 Atlantic Quay  
Robertson Street  
Glasgow  
G2 8JB

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Dear Ms Hamilton

**CONSENT AND DEEMED PLANNING PERMISSION FOR THE  
CONSTRUCTION AND OPERATION OF WHITELEE WIND FARM  
EXTENSION PHASE 3 IN THE EAST AYRSHIRE COUNCIL PLANNING  
AUTHORITY AREA.**

**Application**

I refer to the Application made by Scottish Power Renewables (UK) Limited, a company incorporated under the Companies Acts with company number NI028425, ("the Company") dated 10<sup>th</sup> August 2012 for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") to construct and operate Whitelee Wind Farm Extension Phase 3 located south of Eaglesham in the East Ayrshire Council area.

The application to extend the existing operational Whitelee Wind Farm is for a development which would have a potential generating capacity of 12MW and would consist of 5 wind turbines, each with a maximum blade tip height of 111m, bringing the total consented capacity of Whitelee Wind Farm to 551MW. This letter contains the Scottish Ministers' decision to refuse the application.

**Consultation**

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the EIA Regulations"), the Company submitted on 10<sup>th</sup> August 2012 an Environmental statement.

Further environmental information was submitted by the Company on 13th April 2015, to update the cumulative landscape and visual impact assessment. In line with statutory requirements, an advertisement of the Application, Environmental Statement and Further Environmental Information were placed in the local and national press, and the Environmental Statement

and Further Environmental Information placed in the public domain, and the opportunity was given for those wishing to make representations to do so.

Under Schedule 8 of the Electricity Act, the relevant Planning Authority is required to be notified in respect of a section 36 consent application. Notifications were sent to East Ayrshire Council as the Planning Authority, as well as to Scottish Natural Heritage and the Scottish Environment Protection Agency. A range of other relevant organisations were also consulted.

In addition to representations by the Planning Authority, SNH, SEPA and other consultees, a total of 54 representations were received, of which 46 were in support and 8 were in objection to the proposal. A summary of consultation responses and third party representations is contained within Chapter 1 of the PLI Report, a copy of which is enclosed with this letter.

### **Public Local Inquiry (PLI)**

East Ayrshire Council objected to the application and did not subsequently withdraw their objection. In accordance with the terms of paragraph 2(2) (a) of Schedule 8 to the Electricity Act a PLI was held.

A pre examination meeting was held on the 23<sup>rd</sup> of January 2015, and the inquiry session was held between 16 and 18<sup>th</sup> and on 24<sup>th</sup> June 2015. Hearing sessions took place on 22<sup>nd</sup> and 24<sup>th</sup> of June. Closing submissions were exchanged in writing, with the final closing submission, on behalf of the applicant, being lodged on 17<sup>th</sup> August. The Reporters conducted unaccompanied inspections of the site and its surroundings and other relevant locations prior to the inquiry. Following the inquiry, accompanied site inspections at viewing locations, residences and locations relevant to water supply concerns were made by the Reporters on 30<sup>th</sup> June 2015.

The PLI Report was received by Scottish Ministers on 27<sup>th</sup> July 2016. The Reporters' recommendation is that the application for Section 36 consent should be refused.

### **Environmental matters**

The Scottish Ministers are satisfied that the applicable procedures regarding publicity and consultation laid down in the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the EIA Regulations") have been followed.

In considering the proposed development, Scottish Ministers have had regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological and physiographical features of special interest; and of protecting sites, buildings and objects of architectural, historic or archaeological interest.

Ministers are satisfied that the Company has complied with its duties under Schedule 9 of the Electricity Act 1989 to have regard to these matters when formulating its proposals.

## **The Scottish Ministers' Considerations**

The Scottish Ministers have considered fully and carefully the application, including the Environmental Statement, Further Environmental Information, consultation responses, public representations, as well as the findings, conclusions and recommendations of the Reporters and all other material information.

The Reporters acknowledge that the proposed extension would make a contribution to the Scottish Government's target of generating 100% of Scotland's electricity demand from renewable sources by 2020. There would be some minor socio-economic benefit from the scheme arising from slightly increased local expenditure during the construction period.

The Reporters recognise that the proposed development would contribute to the output of one of the largest wind farms in Europe and contribute towards the generation of electricity from renewable sources. That would accord with government energy policy and SPP. There would be some other benefits from the further investment in Whitelee, including habitat restoration. However, reflecting the terms of SPP paragraph 169, on balance they do not consider the relatively limited scale of the contribution from these five turbines justifies the adverse spatial impact, albeit localised, of this extension to Whitelee.

Scottish Ministers agree with the reasoning and conclusions of the Reporters and adopt them for the purposes of their own decision.

## **The Scottish Ministers' Determination**

The Scottish Ministers **refuse the application for consent** under section 36 of the Electricity Act for construction and operation of the 5 turbine, 12MW Whitelee Wind Farm Extension Phase 3.

In accordance with regulation 10 of the EIA Regulations, the Company must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the application relates is situated.

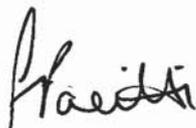
Copies of this letter have been sent to the Planning Authority. This letter will also be published on the Scottish Government's Local Energy & Consents website.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent.

The rules relating to the judicial review process can be found on the website of the Scottish Courts at <https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=12>.

Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Frances Pacitti', written in a cursive style.

**Frances Pacitti**  
**Head of Energy Consents**  
**A member of the staff of the Scottish Ministers**