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Susan Crosthwaite

Subject: 6. FOI request to Dumfries and Galloway
Attachments: Kilgallioch Section 36 Aarhus, JMT and UNESCO-signed.pdf; EIR response - FOI-12-01862 - Kilgallioch wind farm.doc; UNESCO and Natura 2000.docx; CATS report for members on UN Compliance Meeting 16 12 12.pdf
Importance: High

From: Susan Crosthwaite [mailto:enquiries@cossescountryhouse.com]
Sent: 09 January 2013 22:00
To: peter.barker@dumgal.gov.uk
Subject: Response from Scottish Government re Kilgallioch
Importance: High

Dear Peter,

For your information I am copying you in on my latest communications on Kilgallioch. I will be asking for a review. Also for your interest is the report on the UN Compliance meeting.

I would like to request under FOI and under the Environmental Information (Scotland) Regulations, 2004, regulation 5.*the following:

Please make available to me this information within the statutory period:

1. The copy of the Counsel's Opinion on the reasons Dumfries and Galloway did not apply for a JR on the government decision to grant GlenChamber windfarm planning permission.
2. The report on the Council's reasons for not submitting an objection to the proposed Kilgallioch 99 turbines.

Best wishes
Susan

Attached is my latest letter and the response re Section 36 Kilgallioch. Also the information re the Biosphere and Natura 2000 from the Chair of the Sustainable Mountain Development which covers the UK's UNESCO Biosphere reserves. Of particular interest are the comments by Nigel Wallace.

1. Firstly section 1 and the whole reference to the UNESCO status has been ignored.

There are some very important points made by Nigel Wallace: Importantly para 24 of Circular 6/1995 reiterates Article 10 of the Habitats Directive which

"require member states to endeavour, where they consider it necessary in their land use planning and development policies to encourage the management of features of the landscape which are of major importance to the flora and fauna. These features are those which because of their linear and continuous structure or their function as stepping stones are essential for migration, dispersal and genetic exchange"

Para 25 continues "Structure plans, local plans and Indicative Forestry strategies ... should include policies that respect the need to conserve and enhance our natural heritage... In particular these policies should seek to improve the ecological coherence of the Natura 2000 network in accordance with the principles of Article 10"

'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.'

2. The response does not properly address the results of the findings of the JMT u gov poll, or the other surveys discussed.
3. You will note that Robert Logan advises: 'I can advise that we do not complete our own independent assessments and are not required to do so under the terms of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended 2008), specifically paragraphs 4 & 8, which set out that the applicant will submit such information:' and then goes on to quote various sections and the roles of SNH and SEPA (which we know are downgraded). This does not comply with what Aarhus states.

Obviously I am not happy with this response so I will be requesting an internal review, as suggested by Robert Logan by writing to David Wilson, Business Enterprise and Energy Director, 5 Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU or David.Wilson2@scotland.gsi.gov.uk.

If I am not satisfied with the result of the review, then I have the right to make a formal complaint to the Scottish Information Commissioner.

Best wishes

Susan

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