

THWART APPENDIX 7A

FURTHER OBJECTION CONCERNING BIRDS
IN RELATION TO
AN APPLICATION BY WEST WIGHT WIND FARM LTD
TO
ERECT SIX WIND TURBINES
ON
LAND SOUTH OF WELLOW, ISLE OF WIGHT
ON BEHALF OF
THE WIGHT AGAINST RURAL TURBINES
BY
ROBIN BRYER BA(Hons)Dunelm,MRTPI

1. I leave it to those with professional knowledge of birds and the Wild Birds Directive to identify the harm that the proposed turbines could cause to birds and the degree to which this could transgress relevant legislation. My sole purpose here is to observe that in some appeal cases potential harm to birds alone was sufficient for a recommendation of dismissal. I append relevant extracts from just two (nos. 57 and 60 from Appendix 1 to my original objection).

2. Both appeals concern undulating coastal areas, as here. One, as here, concerns an island. Both concern breeding grounds for migratory birds, while I understand that native birds are the cause of concern here, but the principle surely remains the same. In neither case was harm proven, but the need for a precautionary approach was considered justified.

3. The first of these appeals concerns a site at Bowmore on the Isle of Islay (appendix 1). In Part II Reasoning at paragraph 15.1 the recorder noted that the site was not located within an area designated for its nature conservation or other environmental interest, as here, but it adjoined land which was so designated, again as here. He noted that only one bird of the type concerned, and of another species at that, had ever been found to have been killed through collision with a wind farm (paragraph 15.8). None the less he noted the existence of reasonable doubt and agreed that planning permission should be refused (paras 15.14 and 15.16). Earlier in his report (paragraph 14.24) he had noted the importance of the tourist industry to the island, as here, but observed that many of the visitors "are attracted to the island to see birds" and opined that "the number interested in viewing a wind energy plant would be small by comparison"-again, surely, as here.

4. The second of the appeals concerns a mainland coastal site at Tayinloan and follows the lead given by the Bowmore case (appendix 2). The Secretary of State considered the possibility of doubts as to damage being overcome by conditions, but concluded that there were none which would be sufficiently certain in their effect to enable him to meet the Government's obligations under Directive 79/409/EEC (his paragraph 9)

5. It is not for me to say whether the birds involved here should likewise have benefit of the doubt, if doubt there be. However I do reflect that I would rather see and hear a lark, that increasingly rare phenomenon, 100 metres and more above me, than an increasingly ubiquitous wind turbine at the same altitude. Certainly, harm to birds is surely a legitimate reason for refusal here, if not the sole reason, as at Bowmore and Tayinloan.



Appendix 1

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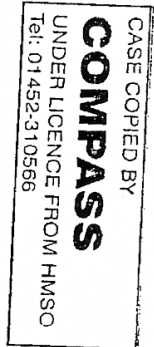
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Your Ref: GMT/TH/ISLAY

Our Ref: P/PP/75/SA/50

11 June 1999



Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PROPOSED ERECTION OF 5 WIND TURBINES AND ANCILLARY
DEVELOPMENT AT BEINN CHURLAICH, ISLAND AND CORRARY FARMS,
BOWMORE, ISLE OF ISLAY**

1. This letter contains the Secretary of State's decision on the application for planning permission which was submitted to the former Argyll and Bute District Council, on 18 May 1995, by Messrs Woolerton Dodwell Associates on behalf of your clients, Windcluster Ltd, for the erection of 5 wind turbines and ancillary development at Beinn Churlaich, Island and Corrary Farms, Bowmore, Isle of Islay. The Secretary of State has decided to refuse planning permission.

2. The application was notified to the Secretary of State on 5 December 1995 by Argyll and Bute District Council and in terms of Section 32 of the Town and Country Planning (Scotland) Act 1972 he directed the planning authority, on 21 March 1996, to refer your client's application to him for determination. This was in view of the development's possible impact on not only a designated Special Protection Area/Special Area of Conservation, but also its possible impact and potential adverse effect on an internationally important population of Greenland White-fronted Geese, protected as a vulnerable species and listed in Annex 1 of Directive 79/409/EEC on the Conservation of Wild Birds.

The Public Local Inquiry

3. Your client's application was thereafter considered at a public local inquiry held between 15 and 18 October 1996 by Mr James McCulloch BA(Hons) MRTPI. A copy of the report of that inquiry was enclosed with the Department's letter of 24 September 1997. A list of those who appeared at the inquiry is given at pages 3 to 5 of the report. A description of the site and its surroundings and details of the factual background appear between paragraphs 2.1 and 2.24 of Part I of the report.



Bowmore Final

Evidence at the Inquiry

4. From paragraph 2.26 of Chapter 2 to Chapter 7 of Part I of the report the Reporter summarises the evidence led and the arguments advanced by the applicants, Argyll and Bute Council, Scottish Natural Heritage, RSPB and third parties. Written submissions are summarised at Chapter 8 and the Reporter's Findings of Fact are contained at Chapter 9 under that heading.

Consideration by the Reporter

5. The Reporter's reasoning, conclusions and recommendations are given at Chapter 10 in Part II of the report.

Post Inquiry Consideration

6. The Department's letter of 24 September 1997 indicated that, on the evidence before him at that time, the Secretary of State was minded to refuse the application. In particular he was of the view that any grant of planning permission for this proposed windfarm development at this location would be contrary to EC obligations under the Wild Birds Directive. In this respect he noted the contents of SOEnvD Circular 6/1995 which indicates that developments which would adversely affect the integrity of a Special Protection Area may only be permitted if there are no alternative solutions and there are imperative reasons of overriding public interest, including considerations of an economic or social nature.

7. Having had regard to the contents of the report prepared by Doctor Patrick Osborne of the Department of Environmental Science at the University of Stirling, a copy of which formed Annex B to the Department's letter of 24 September 1997, and to all the material and evidence presented at the public local inquiry, the Secretary of State agreed with the Reporter that your clients had failed to demonstrate that such exceptional circumstances arise in this case. It was, therefore, his intention to refuse the application, but before reaching a final decision he wished to afford your clients, and other parties to the inquiry, the opportunity to comment on his proposal. The inquiry was subsequently reopened, at your request, to consider these issues.

The Reopened Public Local Inquiry

8. The reopened public local inquiry was held between 26 and 28 May 1998, the issues again being considered by Mr McCulloch. Copies of Part I of the report of the inquiry were circulated to parties for comment and suggested amendments and parties were subsequently notified of amendments incorporated. A copy of the whole report is now enclosed. A list of those who appeared at the inquiry is at page 4 of the report.

Evidence at the Inquiry

9. In Chapters 11 to 13 of Part I of the report the Reporter summarises the further evidence led and arguments advanced. The Reporter's Findings of Fact are at Chapter 15.

Consideration by the Reporter

10. The Reporter's reasoning, conclusions and recommendation that the Secretary of State's proposal that planning permission should be refused is correct, are at Part II of the report at Chapter 15.

Post Reopened Inquiry Evidence/Correspondence

11. Your letters of 23 October and 14 and 17 December 1998, together with the comments of other parties with regard to the content of Part I of the report, have been drawn to the Secretary of State's attention. This correspondence has been taken into account by the Secretary of State, but he does not consider it raises any new issues or contains any new information which would affect his conclusion on this application.

Consideration by the Secretary of State

12. The Secretary of State has carefully considered all the evidence presented at the reopened inquiry, the Reporter's Findings of Fact and his conclusions and recommendation thereon. Subject to the following he accepts the Findings of Fact, agrees with the Reporter's reasoning and conclusions, and adopts them for the purposes of his own decision, and accepts the Reporter's recommendation that the proposal that planning permission should be refused is correct. He also adopts, for the purposes of his decision, the terms of the Department's letter of 24 September 1997.

13. At paragraph 14.63 of Chapter I of the report the Reporter finds that:-

"The dispute between the parties as to whether the conservation status of the Greenland White-fronted Goose in Scotland is to be considered in terms of sub-paragraph 41(ii), rather than 41(iii) of SNH72 "Wild Geese and Agriculture in Scotland - A discussion paper", is for the Secretary of State to determine as author".

14. The Secretary of State has considered this issue carefully and, based on the evidence available to him, takes the view that the Greenland White-fronted Goose in Scotland should be regarded as currently having a population which is "favourable under protective management" within the meaning defined in sub-paragraph 41(ii) of "Wild Geese and Agriculture in Scotland - A discussion paper".

15. Accordingly, the Secretary of State has decided to refuse to grant planning permission for the erection of 5 wind turbines and ancillary development at Beinn Churlaich, Island and Corrary Farms, Bowmore, Isle of Islay and this letter constitutes his decision to that effect.

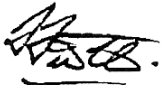
16. The foregoing decision of the Secretary of State is final, subject to the right, conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997, of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date hereof. On any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially

prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

17. A copy of this letter has been sent to Argyll and Bute Council, parties who appeared at the public local inquiry, and parties who made written representations (other than pro-forma or petition signatories) at any stage of the process to the Secretary of State.

18. All productions submitted to the public local inquiries are currently held in this office. These will be disposed of within 3 months from the date of this letter if not collected.

Yours faithfully



IAN FIRTH

14.18 The analysis undertaken by the developers led them to conclude that there are no better sites on the island for a wind energy development than Beinn Churlaich but it is now conceded that there could be other equally suitable sites on Islay.

14.19 I find that their analysis considered all of the relevant environmental and technical constraints but neither weighted those constraints relative to each other nor considered the extent to which development within a constrained area might prove to be acceptable. The assessment that there are no better sites on the island therefore proceeds on an assumption which is unsupported by evidence to the inquiry.

14.20 It remains feasible that there could be other equally suitable sites on the island where the applicants' wind speed criterion relevant to this proposal could be met. It is not possible to determine whether there would be any effect on nature conservation in these other locations but the sieve analysis appears to suggest the existence of potential. A wind energy development of equivalent size on an alternative site, whether on Islay or elsewhere, would deliver exactly the same benefits in terms of the national energy policy, including reducing the potential risk to the low lying area adjacent to Loch Indaal as the result of global warming. Clearly, however, those benefits which might accrue directly to the community on Islay from a wind energy development on the island would not be realised were the development undertaken elsewhere.

Environmental issues not related to nature conservation

14.21 Two objectors are concerned about the effect of this development within the landscape. That concern is not shared by SNH, the planning authority or any statutory consultee. Based on my accompanied and unaccompanied site inspections I find, as a matter of fact and degree and notwithstanding the proposal to erect the turbines around the crest of Beinn Churlaich, that in longer views the landscape in this part of Islay has the scale to be able to accommodate this development without adverse impact on its character and quality. At closer quarters, such as from Cruach, the turbines would be a significant new element but I find that this effect would not match the level of local intrusion caused by the BBC's lattice steel tower which is located nearby. Beinn Churlaich is not designated in the development plan for reasons associated with landscape quality.

14.22 Based on the evidence led and the consultations with the appropriate authorities I find no issues of any significance, whether arising from the provisions of the development plan or not, to the issue of whether or not planning permission should be granted arising from access; distraction of drivers; shadow flicker affecting domestic property; terrestrial ecology; land use considerations, including the use of agricultural land; and archaeology.

14.23 In relation to electro-magnetic disturbance the only issue of significance relates to the potential for interference with the BBC's re-broadcast link. This has been addressed and would be resolved between the developer and the BBC at the former's expense. If necessary the matter may be included within an agreement under section 75 of the Act.

14.24 The tourist industry on the island was worth more than £3 m each year in 1989 when it attracted 29,000 visitors and employed more than 150 in FTE jobs. Many of these visitors are

attracted to the island to see birds. The number interested in viewing a wind energy development would be small by comparison.

14.25 The objectors are concerned about the noise impact of the development on residential property. PAN 45 advises, based on experience, that there is unlikely to be a significant noise problem for any noise sensitive property situated further than 350-400 m from the nearest turbine. Even taking account of those factors reported in paragraph 3.8 which may have led to an elevation in the background noise level I find no evidence that any noise sensitive property, whether at Cruach or Corrary Farm, would be affected by noise from the development once in operation. The predicted levels suggest an effect of no significance either within or outwith these buildings. Any noise caused by construction would be likely to be of only limited duration.

14.26 There is no objection to either the principle or the detail of this development from either the Ministry of Defence or the Civil Aviation Authority. The bodies responsible for the safety of aircraft and the operation of the airport on Islay do not therefore share Ms Leitch's concerns.

14.27 Drawing these important considerations together, and taking account of the terms both of the development plan and of the council's *ad hoc* policy, I find none that amounts to a ground for the refusal of the planning permission which is sought in this case.

Eilean na Muice Duibhe

14.28 Duich Moss is a low undulating area of 570 ha of active blanket bog punctuated by numerous freshwater pools and lochans. The northern boundary of the area designated an SSSI notified on 19 July 1984 is approximately 500 m south of Beinn Churlaich. The citation (SNH 29) refers to both blanket mire habitat and the major roost area for the Greenland white-fronted Goose.

14.29 The whole SSSI has been classified by the Secretary of State as a Special Protection Area and is listed as a Ramsar site and is a National Nature Reserve. The boundary of each designation is co-incident. The land has been proposed as a Special Area of Conservation under the EC Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (92/43/EEC). It is, within the terms of that Directive, a priority habitat type. The SPA designation was made in recognition of its international importance for wintering Greenland white-fronted geese. In addition to geese other species recognised on the SPA citation include red-throated diver, golden plover, whooper swans and feeding and roosting hen harriers

14.30 Following the grant of planning permission for peat extraction in 1984 and the successful complaint to the European Commission citing a breach of Directive 79/409, a management agreement was entered into between NCC and SMD under section 15 of the Countryside Act 1968 so that the latter agreed not to exercise their right to cut peat. An excambion was subsequently agreed to provide an alternative source.

14.31 The land is managed now for its nature conservation interest partly as an NNR and partly under agreement between SNH and the owners. The Management Plan, SNH 27, sets

PART II

Reasoning

15.1 Section 25 of the Act requires the determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. My findings on those environmental issues unconnected with nature conservation, as reported at paragraphs 14.21-14.26, do not justify suspending the normal presumption in favour of development in this case. However, this development, although not located within an area designated for its nature conservation or other environmental interest, adjoins land which is so designated in recognition of its international importance. It is therefore subject to a very high level of protection within the terms of the national policy relating to the Habitats and Birds Directives.

15.2 The approved structure plan policy REN3, which applies to developments of this type and in this location, requires rigorous assessment against specified criteria. One criterion, REN3 (c), is directed at the protection of the interests that are central to the national policy implementing the Habitats and Birds Directives. The criteria for judging whether a development would accord with the regional development strategy are not stated however, and the policy amounts to no more than a statement of administrative intent. Given, also, that there are no policies in an adopted local relevant to this proposal, the judgement of whether, or not, to grant planning permission falls to be made by reference to material considerations.

15.3 In my view this judgement has to be reached within the terms explained at Annex D, Appendix A of SOEnvD Circular 6/1995, an approach that is consistent with the requirement for rigorous assessment set by the approved structure plan. There was some argument about the extent to which the requirements of the Directives have been incorporated into other statements of national policy but these are, for the most part, matters of law and, if relevant to the determination in this case, are for the Secretary of State to consider.

15.4 In relation to the first test set in the Circular, there is no argument that this development is neither connected with, nor necessary for, site management for nature conservation reasons. Even in respect of hen harriers, where the areas of concern are located outwith the SPA, the habitat management works that are proposed are the direct consequence of the proposal and are not suggested in response to a need arising from nature conservation.

15.5 The ornithological value for which the adjoining Eilean na Muice Duibhe SPA was classified is detailed in the citation, SNH 30. The principal concern is with wintering Greenland white-fronted geese although hen harriers, which nest outside the SPA, enjoy the same statutory protection under the Wildlife and Countryside Act 1981. Duich Moss is, within the terms of the Habitats Directive, a priority habitat type supporting a roost of international importance for Greenland white-fronted geese. The interest in hen harriers is also relevant but, given the terms of the citation, geese are the main issue.

15.6 Parties' evidence to both sessions of the inquiry indicates acceptance that a development on Beinn Churlaich has the potential to affect the nature conservation interest in

the adjoining SPA. The issue is whether such an effect would be significant and, if so, whether it would be likely to affect adversely the integrity of the site. This is defined as the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat and the levels of the population of Greenland White-fronted geese that it supports.

15.7 If avoidance by geese transiting Beinn Churlaich is discounted then approximately 10 geese could be killed each day during the goose season. It seems inevitable that the theoretical possibility of approximately 1,800 goose fatalities in a single year would have an adverse effect on the integrity of the SPA given that the roost supported a population of approximately 1,400 geese last winter. The applicants' conclusion that there would be no adverse effect on the integrity of this roost, which is designated because of its international importance, is therefore dependent entirely on birds exhibiting avoidance at the levels that the applicants propose.

15.8 In favour of accepting that evidence concerning avoidance is the fact that throughout the world only one goose, of another species, has ever been found to have been killed through collision with a wind farm. The applicants' researches have been consistent with that experience.

15.9 As noted at finding 14.53, however, the risk to birds in flight should be assessed in a way that is both site and species specific, so far as this is possible. There are particular difficulties in undertaking that task with respect to this proposal. Those studies on which the applicants' predictions of avoidance are based apply, with the exception of the anemometer mast and electricity and telephone lines on Islay, to sites where there are no Greenland white-fronted geese. The fact that different species vary in their capacity to adjust flight patterns ahead of obstacles is significant in that context. The physical and other circumstances of the sites studied, and on which the applicants' predictions of avoidance are based, are not comparable with Beinn Churlaich. There is, in addition, no experience of a wind farm constructed and operating in an area frequented by this species.

15.10 Added to these considerations is the fact that the exercise undertaken by the applicants is based on data derived from published work and neither that derived data nor the results are said to have the support of the original authors who studied the sites. In each instance the conclusions reached are dependent on assumptions made for the applicants.

15.11 The facts disclosed at findings 14.49-14.62 lead me to conclude that confidence cannot be placed on avoidance rates of the order suggested by the applicants being achieved year in year out at Beinn Churlaich. The applicants' proposition, based on their risk assessment, is that there is a 1 in 20 chance of decline in the population of Greenland White-fronted geese. The corollary being that they are confident that there is a 95% chance that this would not occur. The level of mortality on which that projection is based, and from which the risk of collision with turbine towers is entirely discounted, is almost double that at which SNH predict a 1 in 5 probability of population decline in the short term.

15.12 The precise impact of this development is therefore uncertain because there is reasonable doubt as to the level of goose fatalities that might result. Considered in the context

of those findings relating to the sustainability of the goose population on Islay and at Duich Moss (findings 14.63-14.66), the applicants' proposition that conditional planning permission should be granted depends on acceptance both of avoidance at the levels they predict, and also that a 5% chance of population decline would not cause significant irreversible damage to the natural heritage interest of this internationally important site.

15.13 The applicants have suggested the conditions that they propose are imposed in the event that planning permission is granted, production EC77 refers. These allow for shut down for periods at sunrise and sunset if goose casualties occur at a rate which exceeds 14 collisions per annum, being the level at which the applicants consider there is the likelihood of a significant adverse impact. The doubt that exists about the level of fatalities that might occur, and the effect that these could have on the viability of the population of Greenland White-fronts at Duich Moss, does not suggest to me that there is scope within the terms of Regulation 54(3) of the Habitats Regulations for ensuring that an adverse effect on integrity could be avoided with certainty.

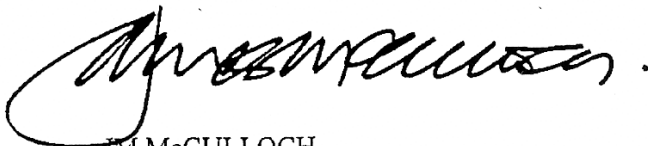
15.14 The existence of reasonable doubt as to level of goose fatalities and thus to the potential effect of the development on the integrity of the SPA suggests a situation where the precautionary principle, as outlined in the national policy on Natural Heritage, NPPG 14, might be applied.

15.15 Parties were understandably concerned to ensure that the benefits to this island community of alternative sources of energy should not be lost. The applicants' evidence remains that there could be other equally suitable sites on Islay for the generation of electricity from wind energy. The case presented in favour of this proposal does not allow conclusions to be drawn as to whether there would be any effect on nature conservation in these other locations, but the analysis appears to suggest the existence of potential. The existence of alternative solutions on Islay that are not constrained by nature conservation interests cannot, therefore, be ruled out.

Recommendation

15.16 I recommend, based on these considerations, that your proposal that planning permission should be refused is correct.

I am Sir
Your obedient Servant



JM McCULLOCH
Deputy Chief Reporter



Appendix 2

11 of 13

THE SCOTTISH OFFICE

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Our Ref: P/PP/75/SA/49

16 June 1998

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PROPOSED ERECTION OF A WINDFARM AT LARGIE ESTATE, TAYINLOAN,
BY TARBERT**

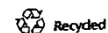
1. This letter contains the Secretary of State's intended decision on the application for planning permission, which was submitted by you on behalf of your clients, Trigen (Kintyre) Limited, to the former Argyll and Bute District Council on 1 July 1994, for the erection of wind turbine generators and ancillary development to include construction compound, transformers and all necessary cables and access tracks at Largie Estate, Tayinloan, by Tarbert. On the evidence currently before him, the Secretary of State is minded to refuse the application. However, before reaching a final decision he would wish to offer parties the opportunity to make further submissions to him.

2. The application was notified to the Secretary of State on 25 November 1995 in accordance with the terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 1994 and in terms of the Act he directed the planning authority, on 15 April 1996, to refer your client's application to him for determination. This was in view of the development's possible impact on a Site of Special Scientific Interest and its possible impact and potential adverse effect on an internationally important population of Greenland White-fronted Geese, protected as a vulnerable species and listed in Annex 1 of Directive 79/409/EEC on the Conservation of Wild Birds.

3. Subsequently, your client's application was considered at a public local inquiry held from 19-22 and 25-28 November 1996 by Mr David A Russell, MA(Hons), MPhil, MRTPI. Part 1 of Mr Russell's report of the public local inquiry was circulated to parties for comments on its accuracy and completeness. A copy of the whole report is now enclosed. A list of those who appeared at the inquiry is given in Appendix 2 of the report and a description of the site and background details are contained in Chapter 1.

KAR00212.068

1.



Evidence at the Inquiry

4. In Chapter 3 of Part 1 of the report the Reporter summarises the evidence led and the arguments advanced by the applicant, the Council, Scottish Natural Heritage and third parties. Written submissions received are also summarised in the same Chapter and the Reporter's Findings of Fact are recorded in Chapter 5.

Consideration by the Reporter

5. The Reporter's reasoning, conclusions and qualified recommendations are given in Part 2 of the report.

Consideration by the Secretary of State

6. The Secretary of State has carefully considered all the evidence presented at the inquiry, the Reporter's Findings of Fact and his conclusions and recommendations thereon. He accepts that the determining issues are as set out by the Reporter at paragraph 6.3 of Part 2 of the report and agrees with his Findings of Fact save for that in paragraph 5.70 and thereafter paragraph 5.77 in relation to Condition 6. The Secretary of State also notes that the Reporter's recommendation is in 2 parts and in assessing the first of these at paragraph 6.17, disagrees with the reasoning contained in paragraphs 6.13 to 6.15 and the second element of paragraph 6.16. However, he does accept that the first determining issue ie adverse impact of the proposed development on landscape and visual amenity would not justify refusal of planning permission.

7. The second determining issue relates to whether the proposed development would have an adverse impact on the local population of Greenland White-fronted Geese which would be either so significant or so uncertain that planning permission should be refused, even taking account of planning conditions which might be imposed. The Secretary of State recognises that the proposed condition mentioned in paragraph 5.77 is based on the premise that the geese will react in relation to certain time bands associated with the astronomical events of sunrise and sunset. Equally, he notes that the suggestion which arose during SNH's Dr Band's evidence(paragraph 3.130 of the report) has its roots in behaviour observed in Islay and that it prompted no further discussion or examination during the course of the inquiry.

8. The Secretary of State is also aware that the Reporter found significant differences in the variables underlying the research findings obtained from wind farm sites in the Netherlands and those which would apply at the application site. The Secretary of State understands that whilst there may be similarities between the Tayinloan and Islay sites, there is a very real difference at least in topography with Duich Moss represented as a large level low-altitude area. In addition, there is no convincing reason to suspect that the apparent precision observed on Islay will be replicated elsewhere. That apart and as far as he is aware, geese fly to and from their roosting areas and feeding grounds in response to light intensity per se and not within specific time periods either side of sunrise and sunset.

9. The Secretary of State has given detailed consideration as to whether suitable conditions, if any, could be attached to this planning application in order to mitigate any

adverse effects so enabling consent to be granted. After careful deliberation, he has concluded that there are none which would be sufficiently certain in their effect to enable him to meet the Government's obligations under Directive 79/409/EEC. On that basis, the Secretary of State does not consider that the second part of the Reporter's recommendation requires to be addressed.

10. Before reaching a final decision on this matter, the Secretary of State would wish to offer your clients, and other parties to the inquiry, the opportunity to comment on his proposal that planning permission should be refused. Accordingly, any person who wishes to make further submissions to him in this regard is invited to do so by not later than 24 July which will then be taken into account in his determination of this application. Submissions should be sent to me at the above address quoting our reference detailed at the top of this letter.

11. Copies of this letter and of the inquiry report have been sent to parties who appeared at the Public Local Inquiry.

Yours faithfully



M A SCOTT