

DAERA/26- 690 Environmental Information Regulations 2004**Request Details:**

The request is about a wind turbine project, including a request for copies of installation certificates, completion certificates, commissioning documentation, planning permission, inspection reports, and records of consideration of clawback of grant.

Brief description of the Personal Data falling within the scope of the request

The personal data which has been redacted are the names of DAERA and Council officials, and an ex-DSO employee (Solicitor), that appear in various e-mails. The names of other individuals from outside bodies, and the promoters name, Business ID number, telephone number and house number have also been redacted. This information is undisclosed, and an exemption has therefore been applied under Regulation 13 of the Environmental Information Regulations.

LAWFULNESS**Please identify the lawful bases for processing**

Personal data is processed when it is lawfully disclosed in response to an FOI / EIR request.

The lawful basis for processing is set out in Article 6 of the GDPR and the ICO expects at least one of two lawful bases (Consent / Legitimate Interest) to apply before the personal data held can be disclosed.

- ☐ **Consent:** This will apply when the data subject(s) clear consent exists that allows you to disclose the personal data falling within the scope of this request.
- ☐ **Legitimate interests:** the processing is necessary for the Department's legitimate interests or the legitimate interests of a third party that overrides the data subject(s) rights and freedoms, particularly their right to privacy.

Consideration of Legitimate Interests**1. PURPOSE**

As the disclosure of personal data under FOIA or EIR is a disclosure to the world at large, doing so on the strength of a requester's private interests alone could constitute a disproportionate and unwarranted level of interference with the data subject(s) rights and freedoms, particularly their right to privacy and family life under the Human Rights Act 1998.

2. NECESSITY

The right of access under EIR does not in itself constitute a **pressing social need**.

The Department has considered and not identified any such need for the data subject's right to privacy to be interfered with.

CONCLUSION

Having considered all the information contained within this test, the Department has established that no lawful basis exists for the disclosure of third-party personal data falling within the scope of the request of which the requester is not the data subject

██████████

Communications and Evaluations Branch

Certificate Number: W-00186



Gala-Wind
GENERATING BETTER VALUE

Certificate of Warranty

This certifies that the Gala-Wind 133-11kW turbine with the following serial numbers is covered by the standard Gala-Wind UK Ltd 5 year parts warranty for a period of 5 years from the date of commission.

Customer Name: [REDACTED]

Nacelle Number: 112 11 435

Controller Number: [REDACTED]

Blade Number: B58/2012

Tower Number: 83195/X/32

Commissioned on: 4th September 2012

Signed for and on behalf of Gala-Wind: [REDACTED]

Installing small wind-powered electricity generating systems

This certificate is courtesy of the Institution of Electrical Engineers and can be downloaded from www.tee.org/Publish/WireRegs/Forms_2004.pdf. Note: Only the certificate is shown here. A schedule of items inspected, together with a schedule of test results, are to be appended to this form.

ELECTRICAL INSTALLATION CERTIFICATE (notes 1 and 2) (REQUIREMENTS FOR ELECTRICAL INSTALLATIONS - BS 7671 [IEE WIRING REGULATIONS])

DETAILS OF THE CLIENT (note 1) [REDACTED]			
INSTALLATION ADDRESS [REDACTED] <u>CRANWORTH ROAD</u> <u>COOKS TOWN</u> Postcode <u>BT80 9PW</u>			
DESCRIPTION AND EXTENT OF THE INSTALLATION Tick box as appropriate Description of installation: _____ Extent of installation covered by this Certificate: <u>WIND TURBINE INSTALLATION</u>		New Installation ☒ Addition to an existing installation ☐ Alteration to an existing installation ☐	
FOR DESIGN, CONSTRUCTION, INSPECTION & TESTING I, being the person responsible for the Design, Construction, Inspection & Testing of the electrical installation (as indicated by my signature below), particulars of which are described above, having exercised reasonable skill and care when carrying out the Design, Construction, Inspection & Testing, hereby CERTIFY that the said work for which I have been responsible is to the best of my knowledge and belief in accordance with BS 7671 :....., amended to..... (date) except for the departures, if any, detailed as follows: Details of departures from BS 7671 (Regulations 120-01-03, 120-02): <u>N/A.</u>			
The extent of liability of the signatory is limited to the work described above as the subject of this Certificate.			
Name. (IN BLOCK LETTERS) [REDACTED] Signature (note 3): [REDACTED] For and on behalf of: [REDACTED] Address: [REDACTED]			
NEXT INSPECTION I recommend that this installation is further inspected and tested after an interval of not more than <u>5</u> years/months (notes 4 and 7)			
SUPPLY CHARACTERISTICS AND EARTHING ARRANGEMENTS Tick boxes and enter details, as appropriate			
Earthing arrangements TN-C ☐ TN-S ☐ TN-C-S ☒ TT ☐ IT ☐ Alternative source of supply (to be detailed on attached schedules) ☐	Number and Type Live Conductors a.c. ☒ d.c. ☐ 1-phase, 2-wire ☐ 2-pole ☐ 1-phase, 3-wire ☐ 3-pole ☐ 2-phase, 3-wire ☐ other ☐ 3-phase, 3-wire ☐ 3-phase, 4-wire ☒	Nature of Supply Parameters Nominal voltage, U_n (V) <u>415</u> V Nominal frequency, f (Hz) <u>50</u> Hz Prospective fault current, I_p (kA) <u>2.4</u> kA (note 6) External loop impedance, Z_e (Ω) <u>0.12</u> Ω (Note: (1) by enquiry; (2) by enquiry or by measurement)	Supply Protective Device Characteristic Type <u>1361</u> Nominal current rating <u>63</u> A



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Lár Uladh
Mid Ulster
District Council

APPROVAL OF PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: I/2012/0398/F

Date of Application: 5th November 2012

Site of Proposed
Development:

Approx 103m SW of [REDACTED] Crancussy Road
Cookstown

Description of Proposal:

Retention of 'as constructed' 11kw Gaia wind turbine with a
18.4m hub height (To supersede previously approved 20kw
C & F turbine on 20m tower).

Applicant:

Address: [REDACTED] Crancussy Road
Cookstown

Agent:

Address: [REDACTED]

Drawing Ref: 01, 02, 03

Mid Ulster Council in pursuance of its powers under the above-mentioned Act
hereby

GRANTS PLANNING PERMISSION

for the above-mentioned development in accordance with your application subject to
compliance with the following conditions which are imposed for the reasons stated:

1. This application is approved under section 132 of The Planning (NI) Act 2011

Reason: This is a retrospective application.

2. This permission is granted solely as a substitution for the permission for a
trurbine previously granted on the site under I/2010/0266/F and not more than one
single wind turbine shall be constructed within the site boundary as indicated on
stamped approved drawing No 01 dated 5 Novemeber 2012.



Reason: To prevent the accumulation of turbines on the site.

3. This permission shall be for a limited period of 25 years from the date of this decision. Within 12 months of the cessation of electricity generation at the site or upon the expiration of this permission whichever is sooner, all structures and access tracks shall be removed and the land restored in accordance with a scheme to be submitted to and approved by the Council prior to the commencement of any decommissioning works, unless otherwise agrees by the Council in writing.

Reason: To restore and maintain the landscape quality of the area.

4. The level of noise immissions from the wind turbine hereby permitted (including the application of any tonal penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97) shall not exceed values set out in Table 1 below. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in Table 1 shall be represented by the physically closest location listed in the tables unless otherwise agreed by the Planning Authority.

Table 1: Noise Limits dB LA90 for All Periods

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods									
	4	5	6	7	8	9	10	11	12	
31 Crancussy Road	29.3	30.3	31.4	32.4	33.4	34.3	35.3	36.3	37.3	

Reason: To control the noise levels from the development at noise sensitive locations.

5. Within 4 weeks of a written request by Mid Ulster Council, following a noise complaint which is judged to be reasonable from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the wind farm at the complainant's property following the procedures described in Pages 102-109 of ETSU-R-97. Details of the noise monitoring survey shall be submitted to the Planning Authority for written approval prior to any monitoring commencing. Mid Ulster Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To control the noise levels from the development at noise sensitive locations.



6. Within 4 weeks of a written request by the Planning Authority, following an amplitude modulation (AM) complaint to it from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall submit a scheme for the assessment and regulation of AM to the Planning Authority for its written approval. The scheme shall be in general accordance with;

- any guidance endorsed in National or NI Planning Policy or guidance at that time, or in the absence of endorsed guidance,
- suitable published methodology endorsed as good practise by the institute of acoustics; or in the absence of such methodology,
- the methodology published by renewables UK on the 16th Dec 2013.

Reason: To control the levels of AM from the development at noise sensitive locations.

7. The wind turbine operator shall provide to MUDC the results, assessment and conclusions regarding noise monitoring required by condition 5, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Planning Authority of Mid Ulster Council under condition 5 unless, in either case, otherwise extended in writing by the Planning Authority.

Reason: To control the noise levels from the development at noise sensitive locations.

8. The turbine shall not be operational on or during the following dates and times of each year;

- From 14th March to 17th March and from 15th September to 27th September between the hours of 07:00hrs and 08:00hrs.
- From 16th November to 15th December and from 19th December to 26th January between the hours of 11:30hrs and 12:30 hrs.

Reason: To ensure shadow flicker does not impact detrimentally on the health of neighbouring residents.

Informatives

1. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European protected species included in Schedule II of these Regulations, which includes all species of bat. It is also an offence;

- (a) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) Deliberately to disturb such an animal in such a way as to be likely to;



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- (i) Affect the local distribution or abundance of the species to which it belongs;
- (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
- (iii) Impair its ability to hibernate or migrate;
- (c) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- (d) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity around the turbine, all operation should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

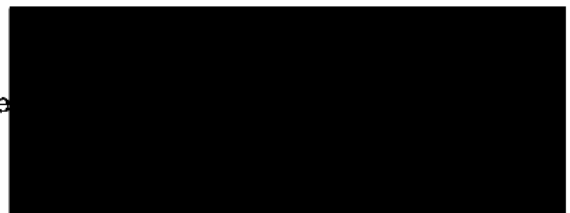
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

4. The scheme for assessment and regulation of Amplitude modulation shall be in general accordance with:

- Any guidance endorsed in National or Northern Ireland Planning Policy or Guidance at that time, or in the absence of endorsed guidance,
- Suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology,
- The methodology published by Renewable UK on the 16th December 2013;

Dated: 27th July 2017

Planning Manager



Stage 3**Final Pre-Payment Site Visit Form (PPSVI) (Article 24
Administrative check)**Implementing Body / Delivery Agent SWEDProject Title..... Wind TurbineApplication Reference Number....

S	SITE VISIT	YES	NO	COMMENTS / EVIDENCE
S1	Is there evidence to confirm that the items claimed are on site and operational (as stated in the Letter of Offer)?	✓		Wind Turbine operational Photo evidence on file
S2	Are the projects aims achieved or on target to be achieved?	✓		on target
S3	Is the Project promoter aware of his obligation to retain all documentation until 31 st December 2021? How & where will the documents be retained?	✓		Is aware. At home
S4	Has the project promoter carried out any publicity for the project as required in the Letter of Offer?		✓	SWED sign placed on Turbine today
S5	Is the project promoter aware of the obligations in relation to European and National statutory requirements on: a) Equal Opportunities b) Fair employment c) Health & Safety	✓		
S6	Is there evidence that the project is fully insured with regard to :- a) Employer's liability? b) Public liability? c) Buildings and Contents insurance? (Ensure that the insurance document is the name of the project promoter)	✓		
S7	Are the equipment items purchased on the Company asset register? (Alternatively list description of item(s), location of item(s) and serial numbers)	✓	✓	N/A.
S8	Have details of the Stage 3 (Administrative Check) been recorded on the database?	✓		(Recorded via "on the spot check" screen)

Additional Comments

I confirm that I have completed a final pre-payment project site visit and verified the existence and operation of the products / services co-financed as detailed in the Letter of Offer.

Name (Printed): .. Signature:.. Date: 11/01/12

Post Project Evaluation Details

Project Details

Programme: Northern Ireland Rural Development Programme
Priority: Axis 3 - the quality of life in rural areas and diversification of the rural economy
Sub Priority: Measure 3.1: diversification into non-agricultural activities
Sub Sub Priority: Measure 3.1: diversification into non-agricultural activities
Implementing Body: Department of Agriculture and Rural Development
Delivery Agent: South West Action for Rural Development (SWARD)

Application Reference No: [REDACTED]

DARD Farm Business ID: [REDACTED]

Date Submitted: 10/05/2012 **Project Start Date:** 26/07/2012

Project End Date: 31/03/2013

Current Application Status: Completed

Organisation name: [REDACTED]

Risk Evaluation: Medium

Project Title: [REDACTED] Wind Turbine

No. Of LoO 2

Amendments:

Project Funding & Actual Expenditure

Currency: STG

FundingType	Source Of Funding Name	Funding Amount As Per LOO	Actual Expenditure	Variance
Community Funding	Community Funding	37,160.00	37,160.00	0.00%
Private Eligible	Peter McNally	37,160.00	37,160.00	0.00%
Totals		74,320.00	74,320.00	0.00%

Reason for Expenditure Variance

No variance

Project Target & Actual Performance Indicators

Target Description	Unit	Target	Actual	Variance
Number of beneficiaries	Number	1.00	1.00	0.00%
Total Volume of Investment	£	74,320.00	74,320.00	0.00%
Number of existing businesses supported	Number	1.00	1.00	0.00%
Potential volume of energy generated from RDP funded renewable energy projects expressed as	Number	30,835.00	30,835.00	0.00%

Reason for Target Variance

Number of beneficiaries: no variance
 Total Volume of Investment: no variance
 Number of existing businesses supported: no variance
 Potential volume of energy generated from RDP funded renewable energy projects expressed as kilowatt hours per annum: No variance - Turbine generating since 4.9.12

Completion Details

Expected Completion Date	Actual Completion Date	Variance (in Days)
31/03/2013	31/03/2013	0
Reason for project Completion Variance		
Project completed on time		
Future Lessons		

Objectives:

- 1 By December 2012 complete the installation and commissioning of an 11 Kw wind turbine achieved
- 2 - Achieve an annual output of 30,835Kwh of energy - achieved
- 3 - Achieve an additional £6821 of farm income generated from diversification activities - objective exceeded - self billing invoice on file verifying income of £7,757.33 (net) for 2013/14

Future Lessons: - none obvious, successful project

PPE Completion Date	PPE Completed By
25/09/2015	

PPE Stage 2 Completion Date	PPE Stage 2 Completed By

[REDACTED]

From: [REDACTED]
Sent: 08 February 2016 10:36
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: [REDACTED]
Attachments: Addendum 2.doc; Annex 2.pdf

[REDACTED] the addendum is the corrected situation to reflect the payment and installation of a 11kw turbine. At the time of the claim to SWARD the only planning approval in place was for a 20kw. The invoices in support of the claim clearly state 11kw. It is clear the applicant was advised to resubmit a planning application for the 11kw turbine after the claim was paid in Oct of that year. The application to planning was submitted on 5 Nov 2012. The revised planning was not followed up until DARD raised the FOI issue. The revised planning approval is dated 9 Dec 2015.

Please explain why the claim was processed without the correct planning in place.

[REDACTED]

From: [REDACTED]
Sent: 08 February 2016 09:59
To: [REDACTED]
Subject: RE: [REDACTED] Ref [REDACTED]

[REDACTED]

The LOO for this project states 11kw on an objective— there's no reference to 20kw. As planning permission was in place for a 20kw turbine SWARD was satisfied this was sufficient for a smaller capacity Installation. A copy of planning approval for an 11kw turbine is now on file.

Regards



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From: [REDACTED]
Sent: 04 February 2016 12:34
To: [REDACTED]
Subject: [REDACTED] Ref [REDACTED]

[REDACTED] at our recent meeting with your staff I mentioned the NIAO findings on a project in other area, where the project was not as detailed in the LoO. I am currently dealing with the 3rd FOI request on this project. Would you explain how SWARD paid out on this project against a LoO for a 20KW turbine as the wind turbine installed was a 11kw. Indeed the planning permission at the time of payment was for a 20Kw turbine and therefore no planning was in place at the time of the processing of the payment.

Grateful for an early response.

[REDACTED]

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[REDACTED]

From: [REDACTED]
Sent: 26 October 2016 09:10
To: 'Guy Glencross'
Cc: [REDACTED]
Subject: RE: Planning application Axis 3 grant

Mr Glencross.

Thank you for your correction. I will action accordingly.

Regards

[REDACTED]

From: Guy Glencross [mailto:guypie333@yahoo.co.uk]
Sent: 25 October 2016 17:28
To: [REDACTED]
Subject: Re: Planning application Axis 3 grant

Dear Mr Nugent. I have one correction to make. The Turbine that became the retrospective planning application I/2012/0398/F was not given the reference number until November 2012 this was a direct result of us informing Western Planning that the turbine was not as approval. The Micro Generation certificate scheme standards were not met by the applicant and the installer as the turbine had no planning permission. This is the most basic prerequisite for the scheme so the certificate that was issued signed for by the applicant and the installer as standards met was a falsehood. The scheme also has standards for responsible siting which are not met please see the attached images the view from our front door and the noise data guidelines as in separation distance are also not met. We hope this of help to you in your inquiry. Regards Guy Glencross

On Tuesday, 25 October 2016, 15:03, "[REDACTED]" wrote:

Dear Mr Glencross

Thank you for your e-mail which my colleague [REDACTED] has referred to me.

I can assure you that where issues around eligibility of projects are raised with us, we investigate these fully and ensure only projects that are eligible within the set parameters of the programme are funded.

We will therefore investigate this matter fully and urgently and whilst you will appreciate that we cannot provide you with specific personal details about the project, if it is found that funding was not appropriate claw back will be an option open to the Department.

I hope you find this helpful and thank you for bringing the matter to our attention.

[REDACTED]
From: Guy Glencross [mailto:guypie333@yahoo.co.uk]
Sent: 12 October 2016 15:37
To: [REDACTED]
Subject: Planning application Axis 3 grant

Dear [REDACTED] Thank you for the documents you sent received today. We are very concerned that the applicant applied for a 20 KW turbine application number I/2010/0266/F which was given planning approval. The applicant Had no permission to build a 11 KW turbine in the location he did and that matter became a retrospective planning permission in September 2012 with the reference number I/2012/0398/f. The applicants reliance on the Micro generation certificate scheme standards are also not met. We have correspondence from Action renewables who police the scheme for OFGEM who state the conditions in this instance are not met. The application is currently quashed by High court Ruling (attached) so we ask how was the grant money paid to a turbine that has no permission to operate. DARD are not the planning authority and this turbine had no permission when the grant monies were paid. I wish you to direct me to the person or persons in authority to investigate this case with haste. Regard Guy Glencross

[REDACTED]

From: [REDACTED]
Sent: 11 July 2017 12:02
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: HPRM: RE: Planning application Axis 3 grant [UNSCANNED]

[REDACTED]

This is the FOI case (Mr Glencross). Retrospective Planning IRO the wind turbine has been approved. We will check if there are any conditions attached once I receive the approval document. We need to formally re-consider eligibility of the application once the final planning outcome is known taking into account the advice received from DSO.

[REDACTED]

From: [REDACTED]
Sent: 11 July 2017 10:50
To: [REDACTED]
Subject: RE: HPRM: RE: Planning application Axis 3 grant [UNSCANNED]

Once its uploaded I will forward a copy on.

[REDACTED]

[REDACTED]

[REDACTED]



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From: [REDACTED]
Sent: 11 July 2017 10:47
To: [REDACTED]
Subject: RE: HPRM: RE: Planning application Axis 3 grant [UNSCANNED]

Thanks [REDACTED] Can you give me copy of approval?

Regards

[REDACTED]

From: [REDACTED]
Sent: 11 July 2017 10:46
To: [REDACTED]
Subject: RE: HPRM: RE: Planning application Axis 3 grant [UNSCANNED]

Sorry – the turbine was approved and has issued just yesterday

[REDACTED]

[REDACTED]

[REDACTED]



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From: [REDACTED]
Sent: 11 July 2017 10:44
[REDACTED]
Subject: FW: HPRM: RE: Planning application Axis 3 grant [UNSCANNED]

[REDACTED] what was the outcome of the 4th July meeting?

Regards

[REDACTED]

From: [REDACTED]
Sent: 06 June 2017 10:02
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: HPRM: RE: Planning application Axis 3 grant

[REDACTED] many thanks for this up-date.

Regards

[REDACTED]

From: [REDACTED]
Sent: 06 June 2017 10:00
To: [REDACTED]
Subject: [REDACTED]

[REDACTED] – the report is complete and recently with Barrister for legal opinion

We are intending providing an opinion to July Committee to be held on 4th July

Regards

[REDACTED]

[REDACTED]

[REDACTED]



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From: [REDACTED]
Sent: 06 June 2017 09:45
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: HPRM: RE: Planning application Axis 3 grant

[REDACTED]

Any developments on this planning application please?

If the June meeting hasn't taken place yet when do you expect a meeting?

Regards

[REDACTED]

If a **From:** [REDACTED]
Sent: 11 April 2017 13:31
To: [REDACTED]
Subject: RE: HPRM: RE: Planning application Axis 3 grant

Sorry [REDACTED] I'm not in a position to state at this stage.

[REDACTED]

[REDACTED]



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From: [REDACTED]

Sent: 11 April 2017 12:14

To: [REDACTED]

Subject: RE: HPRM: RE: Planning application Axis 3 grant

Thanks [REDACTED] - what way is it looking? Disallowance?

[REDACTED]

From: [REDACTED]

Sent: 11 April 2017 12:12

To: [REDACTED]

Subject: RE: HPRM: RE: Planning application Axis 3 grant

Sorry [REDACTED] it didn't – it now looks like June meeting for a decision

Regards

[REDACTED]

[REDACTED]



From: [REDACTED]
Sent: 11 April 2017 11:29
To: [REDACTED]
Subject: FW: HPRM: RE: Planning application Axis 3 grant

[REDACTED]

Did this case make the April Planning committee?

Regards

[REDACTED]

From: [REDACTED]
Sent: 22 February 2017 10:11
To: [REDACTED]
Subject: HPRM: RE: Planning application Axis 3 grant

Thank you [REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 22 February 2017 09:41
To: [REDACTED]
Subject: RE: Planning application Axis 3 grant

[REDACTED]

I/2012/0398/f remain under consideration at present -we may manage an opinion to April Planning Committee. As such the currently erected turbine benefits from no planning permission.

Regards

[REDACTED]

[REDACTED]



From: [REDACTED]
Sent: 21 February 2017 11:48
To: [REDACTED]
Subject: FW: Planning application Axis 3 grant

[REDACTED]

Please see e-mail below. We have discussed.

Can you please advise me of the current planning position with this application as referred to by Mr Glencross?

Kind Regards

[REDACTED]

[REDACTED]

Sent: 26 October 2016 12:32
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Planning application Axis 3 grant

Thanks [REDACTED]

Content with 2 as proposed.

Regarding point 1 – I think at the time the Axis 3 application was appraised and assessed it was considered that appropriate planning permission was in place. We would require further information, including legal view, before concluding that disallowance and claw-back could be implemented.

[REDACTED]

From: [REDACTED]
Sent: 26 October 2016 11:46
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Planning application Axis 3 grant

[REDACTED]

To note current position please as outlined in my correspondence with mid Ulster council which is contained in the last attachment above.

The crucial point is that the retrospective planning permission for a 11kw wind turbine was quashed (thrown out) and is being reconsidered by the planners again with a decision not been expected until possibly January 2017.

We have two options

1 Proper planning permission was not in place for the wind turbine economically appraised and approved by the LAG. As planning permission **at date of application** was a prerequisite of the programme rules then disallowance and claw back could be implemented.

2 we await the outcome of the retrospective planning application and either allow/disallow on the basis of the outcome.

Are all content that we proceed along the lines of 2 above please?

Thanks

[REDACTED]

From: [REDACTED]
Sent: 13 October 2016 11:09
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Planning application Axis 3 grant

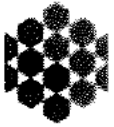
Folks, another legacy case here. Bloke got planning permission to build 20KW wind turbine, subsequently applied for Axis 3 funding and got grant to build an 11Kw turbine which he did not have planning approval for. Applied retrospectively and obtained planning approval, however decision was quashed in the high court this March. Planning now reviewing the application. Bloke also makes allegations about 'Micro generation certificate scheme standards', not sure what the relevance is here. He is now asking for the case to be investigated on the grounds that the bloke got funding for something he had no permission to construct. I'm proposing to respond along the lines that we will liaise with the Planning Service and once the outcome of the revision of the planning is known, we will decide what action to take, including the option of clawback of the grant awarded. Content with this approach?

Regards

[REDACTED]

[REDACTED]

[REDACTED]



Department of

Agriculture, Environment and Rural Affairs

www.darra-ni.gov.uk

From: [REDACTED]
Sent: 13 October 2016 10:57
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Planning application Axis 3 grant

Please see below e-mail from Guy Glencross. The FOI documents were issued to him on Tuesday. [REDACTED] e-mail also refers.

Could you advise how I should respond to him lease.

Thanks
[REDACTED]

From: Guy Glencross [<mailto:guypie333@yahoo.co.uk>]
Sent: 12 October 2016 15:37
To: [REDACTED]
Subject: Planning application Axis 3 grant

Dear [REDACTED] Thank you for the documents you sent received today. We are very concerned that the applicant applied for a 20 KW turbine application number I/2010/0266/F which was given planning approval. The applicant Had no permission to build a 11 KW turbine in the location he did and that matter became a retrospective planning permission in September 2012 with the reference number I/2012/0398/f. The applicants reliance on the Micro generation certificate scheme standards are also not met. We have correspondence from Action renewables who police the scheme for OFGEM who state the conditions in this instance are not met. The application is currently quashed by High court Ruling (attached) so we ask how was the grant money paid to a turbine that has no permission to operate. DARD are not the planning authority and this turbine had no permission when the grant monies were paid. I wish you to direct me to the person or persons in authority to investigate this case with haste. Regard Guy Glencross

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[REDACTED]

From: [REDACTED]
Sent: 09 August 2017 15:19
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: I/2012/0398/F

Thanks [REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: 09 August 2017 14:44
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: I/2012/0398/F

[REDACTED]

As I seem to recall, and [REDACTED] comments confirm this, the LAG took the decision that as the planning permission was for a more powerful and larger structure then they were content that it would cover the smaller version which was subject to the funding application. I agree that clawback would not now be appropriate.

As you say we do need to monitor the project closely to ensure that not only are the Planning conditions being adhered to, but also any objectives relating to the Leader funding are being achieved.

Regards

[REDACTED]

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: 09 August 2017 10:27
To: [REDACTED]
Cc: [REDACTED]

Subject: FW: I/2012/0398/F

[REDACTED]

See attached above (first attachment) background to this case and note in particular paragraph 9 of that draft. Note also (second attachment) advice from [REDACTED] this was one of [REDACTED] cases.

The last attachment provides the outcome of the retrospective planning application.

Strictly speaking, as per our Operating Rules, in my opinion this application was ineligible at initial assessment stage as planning permission IRO the application for funding was not in place. Planning did not equal application. I accept that this is taking a black and white approach.

However since retrospective planning permission has now been awarded for the wind turbine erected we should have no issues with the funding award. Claw back would be bureaucratic and would not serve the rural community in any way.

If you are content I will arrange to have this project closely monitored and will liaise with planners to ensure that the specifics as outlined in the planning approval are being adhered to.

For your advice please?

Regards

[REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: 08 August 2017 12:27

To: [REDACTED]

Cc: [REDACTED]

Subject: I/2012/0398/F

Good Afternoon [REDACTED]

Please see the attached decision notice as requested.

Kind regards

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 23 October 2018 15:15
To: [REDACTED]
Subject: FW: [REDACTED] Crancussy Road Cookstown

[REDACTED]

I am closing this file.

5 year tie in period has expired so we have nothing to gain by further monitoring.

Monitoring of stipulations attached to planning is a matter for the planners.

[REDACTED]

From: [REDACTED]
Sent: 23 October 2018 15:13
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [REDACTED] Crancussy Road Cookstown

[REDACTED] great. Many thanks.

[REDACTED]

From: [REDACTED]
Sent: 23 October 2018 15:12
To: [REDACTED]
Subject: RE: [REDACTED] Crancussy Road Cookstown

£37,160.00 paid under VCES on 31/10/12.

Looks like 5 years+

[REDACTED]

From: [REDACTED]
Sent: 23 October 2018 14:56
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [REDACTED] Crancussy Road Cookstown

[REDACTED]

This is not a debt case-it's a payment query.

Promoter received funding of £37,160 under measure 3.1 of Axis 3 of the RDP. Do you know from your funding records the date of this payment? I want to see if we are outside the 5 year tie in period of the LoO?

Regards

[REDACTED]

From: [REDACTED]
Sent: 23 October 2018 14:40
To: [REDACTED]
Subject: RE: [REDACTED] Crancussy Road Cookstown

[REDACTED]

Im not familiar with this debt. The debt seems to be applied to LFAS or SFPS which isn't one of my schemes.

If I don't know which scheme the debt is actually applied to I cant work out the payment date?

[REDACTED]

From: [REDACTED]
Sent: 23 October 2018 14:33
To: [REDACTED]
Subject: RE: [REDACTED] Crancussy Road Cookstown

Thanks Date of last payment?

[REDACTED]

From: [REDACTED]
Sent: 23 October 2018 14:32
To: [REDACTED]
Subject: RE: [REDACTED] Crancussy Road Cookstown

Business ID [REDACTED]

From: [REDACTED]
Sent: 23 October 2018 14:21
To: [REDACTED]
Subject: [REDACTED] Crancussy Road Cookstown

[REDACTED]

The a/n got a grant under Axis 3 to install a wind turbine.

I don't have his Business ID.

Do you know date of last payment please?

Regards

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 05 May 2017 18:17
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [REDACTED] Crancussy Road Cookstown

[REDACTED]

I have now received a copy of the original Letter of Offer of 18th July 2012 and the two amendments of 18th July 2012.

The two copy Amendments to the original Letter of Offer forwarded are unsigned but I will assume that these were accepted by Mr [REDACTED]

In Annex 4 to the Letters of Offer, it is stated that grant may be disallowed, reduced or recovered in the situations listed. Although it is difficult to find a reference to the exact situation which occurred here, the situations include the following :-

- The grant applicant has not sent the correct original documents to support the claim
- The grant applicant has failed to follow the terms of the scheme or the conditions in the letter of Offer

The Letters of Offer must be read in conjunction with the booklet entitled "Terms and Conditions of Grant Aid" referred to in paragraph b(ii) page 2 of the Letter of Offer, which is usually enclosed with the Letter of Offer sent to the grant applicant.

I have a copy of this booklet, which hopefully is the Booklet in force at the date of these Letters of Offer (Version 3-26 March 2010)* and this sets out, at paragraph 20 thereof, the circumstances in which Joint Council Committees *reserve the right to withhold all or any of the grant aid, and /or require part or all of the grant aid already paid to be repaid.*

The circumstances include the following :-

- The grant applicant is in breach of any of its obligations under the Letter of Offer
- The grant applicant is for any reason no longer able to implement the project

Paragraph 21 of the Booklet of Terms and Conditions of Grant Aid states that the Joint Council Committee *may* terminate or suspend the project or seek repayment where any other event occurs in relation to the Applicant which, in the opinion of the Joint Council Committee and DARD, might reasonably be expected to materially and adversely affect its liability to comply with its obligations under the Letter of Offer and Terms and Conditions of Grant Aid.

The wording used in the Letters of Offer and in the Booklet of Terms and Conditions of Grant Aid indicate that the Department and the Joint Council Committee have a discretion as to whether or not to seek to recover grant aid from a grant applicant and that there is no obligation on DAERA or the JCC/LAG to recover grant aid. This discretion would also allow DAERA and JCC to choose when to initiate clawback and it appears to me that the Department's decision to exercise flexibility and to await the reconsideration of the planning application by the Council at its planning committee in June is a reasonable approach to this matter.

* Could you just check that the Booklet of Terms and Conditions mentioned was the booklet in force at the date of the Letters of Offer, or if not, that the Booklet in force at that time contained identical provisions re clawback?

Regards

[REDACTED]

From: [REDACTED]
Sent: 03 May 2017 10:49
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED] Francussy Road Cookstown

[REDACTED]

Please see attached for your consideration.

Regards

[REDACTED]

[REDACTED]

[REDACTED]



Department of
**Agriculture, Environment
and Rural Affairs**

www.daeira-ni.gov.uk

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From: [REDACTED]

To: [REDACTED]

Date: 3 May 2017

Re: [REDACTED] Crancussy Road Cookstown

Introduction

1. I seek your advice on an application from the above named to Axis 3 of the Rural Development Programme (RDP) 2007-2013 where funding was made to erect a wind turbine. It has now come to light that appropriate planning permission was not in place for the turbine erected.

Background

2. On 10 May 2012, [REDACTED] Crancussy Road, Cookstown applied for funding from Axis 3 2007-2013 of the Rural Development Programme to erect an 11 kw wind turbine at [REDACTED] Crancussy Road, Cookstown.
3. The guidance to applicants wishing to erect a wind turbine to generate electricity stated:
All projects **MUST** provide at time of application:-
 - (a) An independent (i.e. not produced by the installer) feasibility assessment which **MUST** include projected outputs.
 - (b) Planning permission (where appropriate)
 - (c) NIE connection agreement quotation (G83 for under 50kwh and G59 for over 50kwh) confirming D Code compliance of proposed kit.If any of the above are not included then the application cannot be accepted as eligible.
4. The applicant indicated that he had all the relevant approvals in place, including Planning Permission. His planning approval, however, which was granted on 8th June 2010, was for a 20kw turbine, to be erected 110 metres south west of [REDACTED] Crancussy Road, Cookstown, rather than an 11 kw, however the Local Action

Group who was responsible for administering the programme appeared content to accept the application, presumably on the grounds that his planning approval was over and above what he was actually erecting, and a funding award of £37,160 was made on 31 October 2012 under to erect an 11 KW wind turbine.

5. [REDACTED] subsequently erected his 11kw turbine, however it was placed 103 meters SW of [REDACTED] Crancussy Road, Cookstown, rather than at the precise location indicated on the planning approval. An application for retrospective planning approval to rectify the situation was submitted and on 5th November 2015 Mid Ulster District Council gave approval for the Retention of "as constructed **"11 kw wind turbine 103 meters SW of [REDACTED] Crancussy Road, Cookstown** to supersede previously approved 20 KW wind turbine.
6. The decision by Mid Ulster District Council to approve this application was, however, quashed by the High Court on 7th March 2016 following Judicial Review. The Council is now reconsidering this application and in a letter to the applicant dated 16 May 2016 advised him that this would be done without any requirement for a new application to be submitted. We have been advised that the application should be reconsidered by the Council's planning committee in June.
7. Currently the applicant does not have planning permission for the turbine in place.

Departments current Position

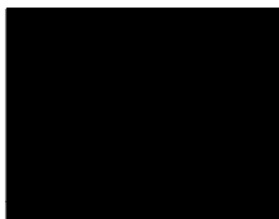
8. The Department has decided not to initiate clawback of the funding made until the outcome of the planning application before Council is decided. However under a Freedom of Information case we are being pressed as to why we are not now initiating claw back since the application should have been considered ineligible at application stage.

9. Our normal approach has been to exercise flexibility in cases like this and where retrospective planning is approved we take no recovery action. Where retrospective planning however is disallowed we then initiate recovery.

Advice sought

10. Is this in your view a reasonable position which we could defend or should we go for claw back now? This may have implications for other applications funded under the programme.

I am available to discuss.



Rural Affairs Division

Payment Authorisation Form

Selection to be completed by Joint Council Committee

Application Reference Number: [REDACTED]

DARD Business No: [REDACTED]

Name and Address of Claimant:

[REDACTED]
 Crancussy Rd
 Cookstown
 Co. Tyrone

Telephone Number: [REDACTED]

VAT Registered: Yes ☒ No ☐

VAT Reg. Number: [REDACTED]

Number of Pages Used: 1



Monitoring Officer
 Compliance Check
 Programme Compliance Unit

Signed: [REDACTED]
 Date: 21/10/12

Date of Vouching: 01/10/12

Vouching carried out by: [REDACTED] (Printed)

[REDACTED] (Signature)

Claim checked by: [REDACTED] (Printed)

[REDACTED] (Signature)

Grant expenditure claimed:	£ 37,160.00
Ineligible expenditure deducted	£
Penalty deducted (If applicable)	£
Approved payment	£ 37,160.00

Irregularity check completed for ineligible expenditure and any applied penalties?: Yes ☒ No ☐ N/A

Database fully completed? Yes ☒ No ☐

Approved for payment by: [REDACTED] (Printed)

[REDACTED] (Signature)

Application Reference Number: [REDACTED]
 Date of Claim: 2-19-12
 Page 1 of 1

[illegible]

Application Reference Number:

Date of Claim: 07/19/12

Item Detailed on Schedule	K Net Cost (Ex VAT) £	L VAT Amount £	M Total Payment £	N LOO Grant Rate %	O Grant Expenditure Claimed £
Purchasing, installation and commissioning of wind turbine	274,300.00	29,864.00	89,184.00	50%	237,160.00
				Total £	237,160.00

I DECLARE THAT:

1. This claim complies with the terms and conditions in the Letter of Offer;
2. I have paid the sums stated which are supported by the enclosed original invoices;
3. No sum included in this claim has been included in any previous claim;
4. Any assets included in this claim are my property or those of the business, partnership, group, association or other as detailed in the application;
5. No asset included in this claim or any previous claim under the present offer of assistance has been sold or disposed of in any way;
6. I have followed the Letter of Offer procurement rules for the purchase of goods and services;
7. I enclose copies of the relevant statutory controls/permissions for this project (if applicable); and
8. I declare that the project named in the Letter of Offer is ~~not~~ ("delete as appropriate) registered for VAT. VAT Registration number ~~123456789~~

Signed:

Date: 27-9-12

Printed:

Position: [] Owner

Warning

Any person who knowingly or recklessly makes a statement for the purposes of obtaining grant under this Scheme or assisting another to obtain grant aid may be prosecuted. The information provided on this form may be made available to other Departments/ Agencies for the purposes of preventing or detecting crime.

DARD FRAUD HOTLINE - Telephone: 08081002716

Silverford House
114 Bush Road, Bush
Dungannon, BT71 6QG

Invoice Date	Invoice No
16/08/2012	

Invoice To

Crancussy Road
Kildress, Co.Tyrone
BT80 9PW

Delivery Address

Crancussy Road
Kildress, Co.Tyrone
BT80 9PW

CERTIFIED COPY

P.O. No.	Terms	Rep	Delivery Date
	Due on receipt	BM	16/08/2012

SIGNED BY [REDACTED]

Qty	Item	Description	Amount
1	Gala 133 - 18m Tube	Supply and installation of a new 11kW Gala 133 Wind Turbine on an 18m Galvanised Tube Tower - Payment #1 as per Estimate 143	55,740.00
SWARD NET VAT TOTAL Vouched Amount £55,740.00 £11,148.00 £66,888.00 Grant Amount £27,870.00 £0.00 £27,870.00 % Rate Eligible 50.00% Checked By [REDACTED] Date 11/8/12 Authorised By [REDACTED] Date [REDACTED] Approved By [REDACTED] Date [REDACTED] SWARD NET VAT TOTAL Vouched Amount £55,740.00 £11,148.00 £66,888.00 Grant Amount £27,870.00 £0.00 £27,870.00 % Rate Eligible 50.00% Checked By [REDACTED] Date 11/8/12 Authorised By [REDACTED] Date [REDACTED] Approved By [REDACTED] Date [REDACTED] Monitoring Officer Compliance Check Programme Compliance Unit Signed [REDACTED] Date 11/8/12			

Our Bank Details

[REDACTED]

Subtotal	£55,740.00
VAT Total	£11,148.00
Total	£66,888.00

Phone #	Fax #	E-mail	Web Site	Company VAT Number
[REDACTED]	[REDACTED]	[REDACTED]	www.silverford.com	[REDACTED]

Silverford House
 114 Bush Road, Bush
 Dungannon, BT71 6QG

Invoice

Invoice Date	Invoice No
25/09/2012	

Invoice To
Crancussy Road Kildress, Co.Tyrone BT80 9PW

Delivery Address
Crancussy Road Kildress, Co.Tyrone BT80 9PW

P.O. No.	Terms	Rep	Delivery Date
	Due on receipt	BM	25/09/2012

Qty	Item	Description	Amount
1	Gala 133 - 18m Tube	Final Payment #2 for Gala Wind Turbine Project. As Per Quote #143	18,580.00
SWARD Vouched Amount £18,580.00 Grant Amount £18,580.00 % Rate Eligible 50.00% Checked By [Redacted] Date 11/09/12 Authorised By [Redacted] Date [Redacted] Approved By [Redacted] Date [Redacted] NET VAT TOTAL £18,580.00 £3,716.00 £22,296.00 Signed By [Redacted] DATE 23/07/14 Paid by cheque No. [Redacted] Payment confirmed with [Redacted] 11/09/12 CERTIFIED COPY			
Monitoring Officer Compliance Check Programme Compliance Unit Signed [Redacted] Date 11/09/12			

Our Bank Details

[Redacted Bank Details]

Subtotal	£18,580.00
VAT Total	£3,716.00
Total	£22,296.00

Phone #	Fax #	E-mail	Web Site	Company VAT Number
[Redacted]	[Redacted]	[Redacted]	www.silverford.com	[Redacted]

[REDACTED]

From: [REDACTED]
Sent: 05 February 2019 14:54
To: [REDACTED]
Cc:
Subject: FW: Planning Application I/2012/0398/F
Attachments: Glencross - final order.odt

[REDACTED]

We have discussed. Can you please register and acknowledge ?

We have agreed the need to seek clarification from Mr Glencross in terms of the information he seeks.

I have discussed with Mid Ulster Council and the position with the planning application referred to in the attachment is that it has been quashed but the application will now be reignited and the process will begin again. We cannot therefore take any action on the funded project as this is still being looked at.

Regards

[REDACTED]

I have trimmed in [REDACTED]

From: Guy Glencross [mailto:guypie333@yahoo.co.uk]
Sent: 05 February 2019 14:08
[REDACTED]
Subject: Planning Application I/2012/0398/F

Mr
Nugent.

We have attached a draft court order from the Royal Courts of Justice Belfast. This was agreed by the Judge on Wednesday the 20th and removed from the court lists. It is self evident that the planning approval decision by the planning committee is quashed as is the application. There is now no need for you to encumber yourself with correspondence with MUDC planning. We now again press your department to recover any and all monies paid to the applicant in Grant aid or subsidy since September 2012. We request under the Environmental Information Regulations (EIR) that you confirm of deny within 20 days that you are taking the appropriate actions to recover all monies paid to this application and applicant as they are now unlawful. Your previous position of inaction is now no longer lawful. We also ask under the EIR for all communications within your department with other departments or any other recorded information in regard to your previous conduct reference this application. We hope that you can now proceed seamlessly to a reasonable conclusion and that the public purse is reimbursed to the full amount paid in error to this application. As per the criteria and as a courtesy we require a acknowledgement of our EIR Request.
Sincerely Guy Glencross