
ACCESS RIGHTS TO MUIRCLEUGH WIND FARM, LAUDER

Report by Service Director Commercial Services

LAUDER COMMON GOOD SUB COMMITTEE

28 October 2014

1 PURPOSE AND SUMMARY

- 1.1 **This report seeks to obtain the approval of Lauder Common Good Sub Committee to grant a further Option Agreement for access rights over Lauder Common to Airvolution Energy in connection with a proposed wind farm on Muircleugh farm.**
- 1.2 In May 2011 Scottish Borders Council on behalf of Lauder Common Good entered into an Option Agreement for access rights over a small part of Lauder Common.
- 1.3 The 2011 agreement terminated on 28 February 2014 but Airvolution are considering a new planning application for a seven mast wind farm.
- 1.4 The wind farm developer, Airvolution, has requested a new Option Agreement until April 2017. The terms of the proposed Option include a payment of £5,000 to Lauder Common Good fund.

2 RECOMMENDATIONS

- 2.1 **I recommend that Lauder Common Good Sub Committee agrees to grant a new Option Agreement to Airvolution for access rights over a small section of Lauder Common. The terms of the Option Agreement include a payment to the Common Good Fund of £5,000, an extended Option Period until a maximum of April 2020 subject to certain planning conditions and payment of the Council's legal fees.**

3 BACKGROUND & PROPOSALS

- 3.1 There have been several attempts over the last few years to develop a wind farm on Muircleugh which neighbours Lauder Common.
- 3.2 The access road to Muircleugh is over Lauder Common and is quite narrow. The delivery of the large turbines requires larger turning areas at each end of the road to Muircleugh. There will also be areas of oversail at the entrance to the access road. The increased turning areas will be formed with hardcore. (see attached plan with areas shaded green)
- 3.3 In 2011 the Council entered into an Option Agreement and lease with Airvolution for the access rights. That agreement was for three years and terminated in February 2014.
- 3.4 Airvolution have requested for the Option Agreement to be re-newed for an extended period which will give more time for the planning process.
- 3.5 The provisionally agreed terms for the new Option Agreement include a payment of £5,000 to the Common Good fund and the payment of the Council's legal fees up to £5,000. The 2011 agreement did not include an Option Fee, just a rent if the wind farm was to proceed.
- 3.6 The extension of the Option Agreement is subject to a planning application being submitted but still to be determined or other delays which are generally out with Airvolution's control.
- 3.7 The ground lease agreed in 2011 is still in force and does not require to be re-newed or adjusted if a further option is agreed.
- 3.8 If the wind farm proceeds the Common Good Fund will receive an annual rent of £1,500 /MW for a 27 year period in terms of the said lease. The current proposal for a 21MW wind farm would give an annual rent of £31,500.

4 IMPLICATIONS

4.1 Financial

The potential income of £5,000 to the Common Good Fund for the Option Agreement is useful as there are few costs associated with the Option Agreement and the Common Good fund require to maintain other assets such as the Town Hall.

4.2 **Risk and Mitigations**

There is little risk in granting the Option Agreement but a greater risk that the wind farm will not be granted planning permission which will result in no lease and no annual income to the Common Good fund.

4.3 **Equalities**

It is anticipated there will be no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals contained in this report.

4.4 **Acting Sustainably**

There are no significant effects on the economy, community or environment.

4.5 **Carbon Management**

There are no significant effects on carbon emissions.

4.6 **Rural Proofing**

Not applicable because no new Council policy or strategy is being requested.

4.7 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to be made.

5 CONSULTATION

5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Service Director Strategy and Policy, the Chief Officer Audit and Risk, the Chief Officer HR, the Service Director Interim Projects and Clerk to the Council have been consulted and their comments have been incorporated into the report.

Approved by

Service Director Commercial Services

Signature

Author

Name	Designation and Contact Number
James Morison	Estates Surveyor, Property & Facilities 01835 824000

Background Papers: None

Previous Minute Reference: 26th January 2011

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email eitranslationrequest@scotborders.gov.uk.