

# Muirhall Energy Presentation to Community Leads

1<sup>st</sup> February 2023

at South of Scotland Office, 4-6 North Bridge Street, Hawick TD9 9QW

## Present:

**Muirhall Energy Ltd (MEL)** –Mhairi Frain (MF), Jamie Leslie (JL), Adam Thom (AT), Lesley McNeil (LMc) Carol Douglas (CD), Debbie Rae (DR)

**Ward Councillors** –Hawick & Denholm Ward Councillor Clair Ramage (CllrCR), Selkirkshire Ward Councillor Elaine Thornton-Nicol (CllrET-N)

**Community Councillors** – Burnfoot – Susan Brown (CllrSB), Hawick – French Wight (CllrFW), Cameron Knox (CllrCK), Hobkirk – Ron Swinton (CllrRS), Newcastleton – Barbara Elborn (CllrBE) Jim Lewis (CllrJL), Southdean – Philip Kerr (CllrPK) UT&BW – Walter Douglas (CllrWD), Danielle Friel (CllrDF), UL&HCC Del Tucker (CllrDT), Scottish Communities Can – Gordie Campbell (GC)

**Apologies:** Denholm CC – Cllrs Gwen Crew & Will Roberts, H&H Ward Cllr Watson McAteer, H&H Ward Cllr Jane Cox

**Mhairi Frain**, Director of Corporate Affairs & Business Support at **MEL**, welcomed everyone and introduced **Jamie Leslie**, Project Manager for the proposed Teviot wind farm, who gave a short project update. The proposal has been submitted to the Energy Consents Unit, but we are still awaiting responses from some statutory consultees. Consultation with remaining consultees is on-going and once all comments are received a more formal update will be provided to those who responded to the application. Meanwhile, if anyone has any questions about the application please get in touch with Jamie – email [jl@muirhallenergy.co.uk](mailto:jl@muirhallenergy.co.uk) or come and see us at the Hawick office (Mon to Thursday).

**CllrPK** asked about the expected date of publication of the Scottish Government’s policy statement regarding Eskdalemuir. **LMc**, whose previous role was Head of Onshore Wind Policy for the Scottish Government, replied that it was effectively a two-string policy, with one element reflecting the Scottish Government’s desire to maximise renewable potential and the second centering on protecting the MoD’s seismic array. **LMc** expects publication of this policy sometime next year.

**MF** re-iterated that MEL considers a Company Limited by Guarantee (**CLG**) to be the most effective and tax-efficient vehicle to secure funding for Communities and also to provide effective indemnity for those individuals who administer the funds. The **CLG** could also achieve charitable status, providing another layer of accountability (desirable) and tax efficiency. Establishing a **CLG** has no effect on the outcome of the application. From our experience early discussions have allowed details to be established before the wind farm is generating.

Reflecting on our previous experience at Crossdykes, **MF** noted that Local Energy Scotland (**LES**) became involved early in the process and offered experience and financial support to ensure Communities could access independent legal and financial advice. **MF** said Communities must obtain independent advice to guide them through the process and that **MEL** would be prepared to cover any professional fees which exceeded the grants offered by **LES**, within reason.

**CClIrPK** queried what would happen should a Community Council fall into abeyance, as was the case with another development he was aware of. **MF** replied that although the funding covered existing Community Council areas, membership of the **CLG** Board could be extended to other competent groups in the area such as Community Development Trusts. **CClIrBE** said Board members must be drawn from groups with elected members and not from single issue or interest groups – all present agreed. **CClIrPK** asked what the expected timeframe for election to the Board was. It was agreed that the group should establish the principle of creating the **CLG** in the first instance with elections being addressed thereafter.

**MF** requested that until such time as the wind farm was up and generating, that **MEL** should be represented on the Board in a purely advisory, non-voting capacity. The rationale was that the MEL member could keep the group informed of progress and development news as well as relating experiences of other CLGs, best practice etc.

### Other points

- Once the wind farm was operational, funds would be paid to the CLG quarterly in arrears
- CLG Board had full control of the funds once in the CLG account
- Funds would be index-linked (CPI) from date of commissioning. Community investment money is paid on MW of installed capacity of the wind turbines only
- CLG would remain flexible, allowing for groups falling into abeyance or forming/reforming
- Benefits included legal framework and liability protection for members
- Seed funding provided by MEL £10,000 pa until start of construction or failure of application. CLG to decide whether the seed funding is to cover costs or for distribution within local communities. At start of construction, the Initial Investment Fund of £500,000 would be paid to the CLG. That funding would be available for distribution to the community over the build period.
- The CLG, once constituted, has employment and borrowing powers

### Questions arising

- **CClIrWD** -If a Community Council doesn't want to join, what provision would be made for them? **MF** answered that the door should always be open to them, and that CCs had a duty to protect future funding for the people in their area. **CClIrWD** – if a CC area doesn't want to participate, can they demand their cash without the CLG? **MF** Developers now have a much clearer responsibility to ensure distributions from the wind farm company are well managed, which is why MEL would much prefer there to be an appropriate vehicle, such as a CLG, to manage such significant sums. Should any of the CCs included prefer not to become involved with the CLG, further discussions should have to take place.
- **MEL's** has previously sold some constructed projects and although the business plan going forward is to construct and retain, there is a possibility that a project could be sold in the future. Although that is the model for future projects, **CClIrDF** asked how we prevent any new owner from reneging on the deal. **MF** replied that **MEL** considers this legal agreement to be the most robust way to ensure continuity. Compliance would also be a condition of sale of the wind farm, and any purchaser would risk huge reputational damage if they defaulted. The successful example of the sale of Crossdykes wind farm was given.

- What figure would be required to fund advice and would costs exceed CARES grant. **MF** We can't give a definite figure, but grant is available and **MEL** will top up any shortfall, within reason. £20k fees plus anticipated on this size of project. Burness Paull has good experience of working for communities interests
- 40 years is a long time. What happens if CC areas are altered or there is any other radical change in Local Authority structure and governance? How do we adapt to that? **MF** In that scenario, we suggest that the geographical boundary is retained.
- If returns from the wind farm change in the future, would that give the wind farm company a get-out clause? **MF** answered that if the wind farm is not generating energy, then returns to the community may be lower and that there have been rare occasions when a site has had planned closures where the community investment money had been reduced to reflect the loss of income but was unaware of it having been stopped altogether.
- **CCLrDF** Will the distribution of funds reflect proximity to the wind farm? **MF** That is for the **CLG** to decide although it would seem equitable to give some weighting to the host CCs interests.

### Next steps

**MF** suggested that a working group be selected from those present to initiate the next steps. That working group would contact Mark Brennan of **LES** in the first instance and possibly Burness Paull for legal advice, given their experience in the field of supporting communities and their familiarity with Scots Law and Planning, although it is up to the group to decide whom they wish to instruct.

The **MEL** staff left the room at that point to allow the **CCLrs** to discuss their options amongst themselves.

After discussion, it was decided a working group would approach **LES** and the two D&G Community Councils – Langholm Ewes and Westerkirk and Eskdalemuir - who weren't present this evening. It is important that they're included from here on. Both these CCs already have experience of **CLGs**.

**CLrET-N** will ensure Lilliesleaf Ashkirk & Midlem, and Ettrick & Yarrow CCs have representatives at the next meeting.

**MEL** to confirm with all parties that they are happy for their emails to be shared with the working group to take forward, prior to sending to **CCLrBE**.

The meeting concluded and will reconvene at a date to be decided, **CCLrBE** indicated this was likely to be mid – end April.