

EAST AYRSHIRE COUNCIL

CABINET - 5 DECEMBER 2007

OUTCOME AND RECOMMENDATIONS FROM THE CALLED-IN DECISION OF CABINET - 24 OCTOBER 2007: WINDFARM POLICY

Report by the Chair of the Governance & Scrutiny Committee

1. PURPOSE OF REPORT

- 1.1** The purpose of this report is to present the recommendation of the Governance and Scrutiny Committee of 23 November 2007 in respect of the called-in decision of Cabinet relating to the Windfarm Policy.

2. BACKGROUND

- 2.1** The Cabinet, at its meeting held on 24 October 2007, considered a report which sought approval for a Council-wide Windfarm Policy to be included within the Finalised Alteration to the East Ayrshire Local Plan and for the establishment of a Renewable Energy Fund.

- 2.2** The Cabinet meeting agreed:-

- (i) that the revised policy relating to windfarm contribution as detailed at paragraph 3.6 of the report, be incorporated in the Finalised Draft of the Alteration to the East Ayrshire Local Plan for consideration by an appropriate future Cabinet, along with all other provisions for the Finalised Plan;
- (ii) to approve the establishment of the Renewal Energy Fund to be dispersed by Cabinet in accordance with the criteria as set out in paragraph 4.2 of the report; and
- (iii) to approve the dispersal of Whitelee Windfarm Contributions beyond the initial 31 month period.

- 2.3** A request to “call-in” this decision of Cabinet was subsequently received by the Chief Executive on 25 October 2007. Signatories to the call-in request were Councillors Eric Ross, John Knapp, James Kelly, William Menzies and Drew McIntyre.

- 2.4** The reason for the decision being “called-in” was that “contained within the narrative under 3.2 and 3.6 there are details of the reasons for changing the policy. It is specific regarding the percentages. We the undersigned believe that the figures presented in the Committee paper are incorrect and led to the communities being disadvantaged by the new Policy. We therefore are of the opinion that the decision that Cabinet came to was based on wrong evidence and should be subject to revisit by the Governance and Scrutiny Committee”.

3. CONSIDERATION OF THE “CALLED-IN” CABINET DECISION

- 3.1** The “called-in” decision was considered at the Governance and Scrutiny Committee held on 23 November 2007.
- 3.2** Councillor Kelly and Councillor Knapp spoke to their reasons for the call-in. Councillor Kelly, in his presentation to the Committee, confirmed that the figures on which the Cabinet had based their decision were flawed and submitted a paper (Appendix I) that provided working examples that he considered demonstrated that local communities would suffer detriment, compared with the existing formula which was based on a 70% local distribution, 30% East Ayrshire-wide distribution. Councillor Kelly further submitted that consideration should be given as to how to provide for greater community involvement in how the money would be spent. Councillor Knapp supported the submissions made by Councillor Kelly and confirmed that in his view, as a result of the uncertainty over the figures presented to Cabinet, Elected Members were not clear what the outcome of the Cabinet decision would be and, accordingly, the matter should be referred back to Cabinet for a clear and concise decision,
- 3.3** Councillor Buchanan, Spokesperson for Environment and Regeneration and Elizabeth Morton, Depute Chief Executive/Executive Director of Corporate Support then spoke in relation to the Cabinet decision and submitted a paper (Appendix 2) which gave examples of various ratio and front-loaded options in respect of the distribution of grant between the local community and East Ayrshire-wide.
- 3.4** Councillor Buchanan stated that having heard the submissions, he was prepared to take the matter back to Cabinet to give consideration to any proposal that maintained the 70:30 split and to ensure that local communities were not disadvantaged. The Depute Chief Executive/Executive Director of Corporate Support gave a report on existing windfarm funding arrangements at Hare Hill, that provided a one-off payment of £50,000 to New Cumnock Community Council and a further payment of approximately £7-9,000 per annum. The Depute Chief Executive/Executive Director of Corporate Support confirmed that the Council had had no involvement in this agreement but any extension of this windfarm would be subject to the proposed new policy.
- 3.5** The Depute Chief Executive/Executive Director of Corporate Support also reported on the Whitelee Windfarm current arrangements and referred to the Cabinet decision of 22 August 2007 when the Cabinet had agreed a 100% allocation of the community benefit contributions for the first 31 months to the Access Action Plan. Thereafter, the remaining period of operation and any extension to the windfarm would operate under the proposed new policy. The Depute Chief Executive/Executive Director of Corporate Support further spoke to the paper submitted (Appendix II) and clarified that the proposals to front-load contributions in favour of the local community was to recognise the immediate impact on the immediate community in the earlier years of the project when the greatest impact would be felt. Having referred to the various examples within Appendix II, the Depute Chief Executive/Executive Director of

Corporate Support intimated that she hoped that the paper and explanation from both Councillor Buchanan and herself had addressed the points raised in the call-in notice.

- 3.6 The signatories to the call-in and members of the Committee had the opportunity to raise questions. Councillor Kelly, at this stage, enquired if a higher profit was achieved by the energy company could greater contributions be sought. In addition, he reiterated his earlier comments regarding the need for greater community involvement on how the money would be spent.
- 3.7 The Chair pointed out that neither these points had been detailed in the original call-in but in this instance, having noted that Councillor Buchanan and the Depute Chief Executive/Executive Director of Corporate Support had no objections, he was happy to have these new issues discussed.
- 3.8 Councillor Buchanan confirmed that it would not be possible to renegotiate any original legal agreement. Agreements required to be negotiated at the commencement of the projects but confirmed that contributions would be index-linked and reassured the Members, that the Council would seek the best deal possible in the interests of the affected communities. The Depute Chief Executive/Executive Director of Corporate Support confirmed that local Elected Members would have a role to play in providing input into the disbursement process and advised that community input into the disbursement process was under consideration.
- 3.9 The Governance and Scrutiny Committee noted the comments from the Depute Chief Executive/Executive Director of Corporate Support that consideration of community involvement in the disbursement of grants was under consideration.

4. LEGAL/FINANCIAL IMPLICATIONS

- 4.1 None arising directly from this report.

5. POLICY IMPLICATIONS

- 5.1 The acceptance of the Governance and Scrutiny recommendation will impact on the final windfarm contributions policy proposal.

6. COMMUNITY PLANNING IMPLICATIONS

- 6.1 The distribution of Windfarm Contributions will assist in delivering a range of projects identified within the theme of improving the environment in the Community Plan.

7. RECOMMENDATION

- 7.1** Having considered the presentations made and evidence submitted, the Committee agreed to recommend that the Cabinet give further consideration to the proposed contributions disbursement policy with a view to achieving a 70:30 split and that Cabinet receive options to achieve the equivalent of this split for consideration and that Cabinet also ensure that any selected option would not result in any detriment to the local community.

Tom Cook
Chair of the Governance & Scrutiny Committee

26 November 2007
JMcG/SC

BACKGROUND PAPERS - Nil

Any person wishing further information on this report should contact Bill Walkinshaw, Head of Democratic Services on Tel No (01563) 576135.

Implementation Officer: Bill Walkinshaw, Head of Democratic Services in terms of the call-in procedures