

EAST AYRSHIRE COUNCIL

**MINUTES OF MEETING HELD ON THURSDAY 4 NOVEMBER 2010
AT 1000 HRS IN THE COUNCIL CHAMBERS, COUNCIL HEADQUARTERS,
LONDON ROAD, KILMARNOCK**

PRESENT: Depute Provost John Campbell and Councillors Rose-Ann Cuninghame, John MacKay, John McGhee, Helen Coffey, Willie Coffey, Maureen McKay, Tom Cook, Robert Keohone, Iain Linton, Douglas Reid, Jim Buchanan, Councillors Gordon Cree, Drew McIntyre, John Knapp, Hugh Ross, Jim Todd, Alan Brown, Stuart Finlayson, Robert McDill, Jimmy Kelly, Neil McGhee, Jim Roberts, David Shaw, William Crawford, Barney Menzies, Kathy Morrice, Eric Ross, Elaine Dinwoodie, Drew Filson and Moira Pirie.

ATTENDING: Fiona Lees, Chief Executive; Graham Short, Executive Director of Educational and Social Services; Alex McPhee, Executive Director of Finance and Corporate Support; Bill Walkinshaw, Head of Democratic Services; Chris McAleavey, Head of Housing; David Mitchell, Head of Legal, Procurement and Regulatory Services; Alan Neish, Head of Planning and Economic Development; Hugh Melvin, Principal Planning Officer; Fiona Finlay, Principal Planning Officer; and Julie McGarry, Administration Manager.

APOLOGY: Provost Stephanie Young.

CHAIR: Depute Provost John Campbell.

OPENING REMARKS

1. The Depute Provost welcomed Councillor Cree back following his recent illness.

**PERFORMANCE OF “YOU GAVE BACK A PART OF ME”
BY TEAM LOUDOUN (LOUDOUN ACADEMY)**

2. The Depute Provost congratulated and welcomed along to the meeting the pupils of Loudoun Academy who had been informed that their magnificent fund raising efforts for Children in Need would be highlighted on national TV. The Depute Provost advised that the pupils had written a song, performed and recorded it and produced a CD “You Gave Back a Part of Me” and that they would perform the song live at Children in Need Rocks Scotland at the SECC on 19 November. The Depute Provost further advised that the BBC also intended to make the song Scotland’s Children in Need single. The Depute Provost also advised that over the years, Loudoun Academy had raised over £90,000 for Children in Need and he was sure that everyone from parents, grandparents, families and friends were all extremely proud of their achievements. The Depute Provost advised that he had heard Team Loudoun sing the song the previous Saturday morning and it had been magnificent.

Depute Head Teacher Eleanor McLean then introduced Team Loudoun to the Council meeting.

The pupils then performed the song “You Gave Back a Part of Me”.

The Executive Director of Educational and Social Services also congratulated the pupils and stated that this demonstrated the great success the Curriculum for Excellence was proving to be within East Ayrshire schools.

The Depute Provost then thanked the pupils for a fantastic performance.

**PRESENTATION TO EAST AYRSHIRE SCHOOLS SQUAD -
WINNERS OF THE UNDER 15 NATIONAL CUP 2010**

3. The Depute Provost then expressed his delight to welcome the East Ayrshire Under 15s Schools Squad who had won the Under 15 National Cup 2010. The Depute Provost referred to the magnitude of winning, not just the Cup, but a national trophy which was a great achievement, and congratulated the players and their coaches.

The Depute Provost then presented Team Captain Kieran McCrum with a token of appreciation from the Council.

DEPUTE PROVOST'S REMARKS

4. The Depute Provost congratulated Peter Kirkbride, a member of Kilmarnock Amateur Weightlifting Club, who had lifted a silver medal at the Commonwealth Games held in Delhi, India. The Depute Provost advised that not only had he won the medal but had managed to break two British and two Scottish records. The Depute Provost advised that he had recently met and spoken with Peter, who he considered was a very modest but very determined person, and wished him all the very best for future success.

The Depute Provost also mentioned other athletes who had competed, Graeme Kane, a weightlifter, and Clare Johnstone, a bowler, who, although they had not won medals, had done extremely well and he was sure they would be in contention when the Games came to Glasgow in 2014.

The Depute Provost then intimated that Woodstock School had been one of just six finalists from all over Scotland who had been shortlisted for best Green School in the Scottish Green Awards. The Depute Provost reported that although they had not picked up the title, they had done extremely well to reach the final of such a prestigious event.

The Depute Provost then expressed his delight to learn that two pupils from East Ayrshire had secured places on a trip to NASA's Johnson Space Center in Houston, Texas. The Depute Provost advised that Sixth Year pupils Rachel McAughtrie of Grange Academy and April Kilday of Cumnock Academy would join 10 others from across Scotland who would be given the rare opportunity of meeting astronauts, engineers and scientists working on the space programme.

The Depute Provost then reported on Provost Young's attendance at the Scottish Learning Partnership Awards Ceremony in Edinburgh on 29 September where the Netherthird Wednesday Drop In Group had been nominated for a Good Practice Award in Adult Education and had won the award for Nurturing Powerful Local Partnerships. The Depute Provost congratulated the group on their success.

The Depute Provost then advised that East Ayrshire Council had won a National Music Council Award for high quality music provision to young people in schools. The Depute Provost further advised that the Council had been the only Scottish local authority who had been awarded the Major Trophy and the only local authority in Scotland to have received such an award on more than one occasion, this being the sixth year in a row the Council had received an award. Finally, the Depute Provost

confirmed that the ceremony would take place in London later in November and intimated his congratulations to John Wilson, Paul Wood and all the team involved.

PREVIOUS MINUTES

5. There were submitted and approved as a correct record, Minutes of Council meeting held on 23 September 2010 (pages 1341-1348) (circulated).

CABINET/COMMITTEE MINUTES

6. There were submitted (circulated) and approved, both as correct records and in respect of any recommendations contained therein, with the exception of the Minutes of the Governance and Scrutiny Committee which were for noting only, the Minutes of the undernoted meetings, viz:-

- 6.1 **APPEALS PANEL OF 2 SEPTEMBER 2010 (page 1336).**
- 6.2 **CABINET OF 15 SEPTEMBER 2010 (pages 1337-1340).**
- 6.3 **GOVERNANCE AND SCRUTINY COMMITTEE OF 24 SEPTEMBER 2010 (FOR INFORMATION ONLY) (pages 1349-1354).**
- 6.4 **APPEALS PANEL OF 24 SEPTEMBER 2010 (page 1355).**
- 6.5 **CABINET OF 29 SEPTEMBER 2010 (pages 1356-1361).**
- 6.6 **APPEALS PANEL OF 30 SEPTEMBER 2010 (pages 1362-1363).**
- 6.7 **SOUTHERN LOCAL PLANNING COMMITTEE OF 1 OCTOBER 2010 (pages 1364-1366).**
- 6.8 **SPECIAL SOUTHERN LOCAL PLANNING COMMITTEE OF 15 OCTOBER 2010 (pages 1367-1369).**
- 6.9 **CABINET OF 20 OCTOBER 2010 (pages 1370-1376).**
- 6.10 **LOCAL GOVERNMENT LICENSING PANEL OF 21 OCTOBER 2010 (pages 1377-1379).**
- 6.11 **GOVERNANCE AND SCRUTINY COMMITTEE OF 22 OCTOBER 2010 (FOR INFORMATION ONLY) (pages 1380-1384).**

DRAFT EAST AYRSHIRE COUNCIL MEETINGS CALENDAR FOR JANUARY TO DECEMBER 2011

7. There was submitted a report dated 8 October 2010 (circulated) by the Executive Director of Finance and Corporate Support which submitted, for consideration of Council, a draft East Ayrshire Council Meetings Calendar for January to December 2011.

It was agreed:

- (i) to approve the Meetings Calendar enclosed with the report subject to (a) the inclusion of meeting dates for outside agencies identified at paragraph 2.3 of the report; and (b) consultation with all Groups with a view to reducing the number of scheduled Elected Member Training Sessions;

Note

With regard to Item 6.7 above, for reference, Councillors Neil McGhee and Billy Crawford had also declared a non-financial interest in respect of Item 4 of the business transacted at the Southern Local Planning Committee of 1 October 2010.

- (ii) to note that dates for Local Community Planning Forum meetings would be inserted within the Meetings Calendar following the event in February 2011; and
- (iii) otherwise, to note the contents of the report.

BARR EAST AYRSHIRE LANDFILL COMMUNITIES FUND

8. There was submitted a report dated 25 October 2010 (circulated) by the Depute Chief Executive/Executive Director of Neighbourhood Services which advised the Council of the Environmental Improvement Grant Scheme for East Ayrshire which was administered by Score Environment and which sought the appointment of a representative from East Ayrshire Council to the Barr East Ayrshire Landfill Communities Fund Committee which considered applications for funding.

Councillor Reid, seconded by Councillor Linton, moved:

- (i) that Councillor Buchanan, as Spokesperson for Environment and Regeneration (with substitute member being Councillor Cook) be nominated to represent East Ayrshire Council on the Barr East Ayrshire Landfill Communities Fund Committee; and
- (ii) that annual reports from the Committee on decisions taken in respect of funding be submitted to both the Cabinet and Governance and Scrutiny Committee for their information.

Councillor Maureen McKay, seconded by Councillor Elaine Dinwoodie, it having been subsequently clarified that membership of the Committee did not reside within the gift of the Council and a request would therefore require to be made in respect of a second member, moved as an amendment:

- (i) to increase representation from East Ayrshire Council on the Committee to two, and that the additional Elected Member be Councillor Menzies;
- (ii) that annual reports from the Committee on decisions taken in respect of funding be submitted to both the Cabinet and Governance and Scrutiny Committee; and
- (iii) that officers consider mechanisms to promote this Fund through the East Ayrshire Area.

On a division by a show of hands the amendment was carried by 16 votes to 15.

Council also noted that the Depute Chief Executive/Executive Director of Neighbourhood Services would take appropriate steps to promote throughout East Ayrshire the availability of funding from this Committee.

SUBSTITUTE APPOINTMENTS TO ORGANISATIONS - CHANGES REQUESTED BY THE LABOUR GROUP

9. Following a request from the Labour Group, it was agreed as follows, viz:-
- (i) Kilmarnock Town Centre Liaison Group - that Councillor Robert Keohone be substitute member for Councillor Drew McIntyre; and
 - (ii) A76 Partnership - that Councillor William Crawford be substitute member for Councillor Eric Ross.

ADJOURNMENT/RECONVENTION

10. The Council meeting adjourned at 1046 hrs and reconvened at 1100 hrs with the same Members and officers present and in attendance with the exception of Councillors Willie Coffey and David Shaw.

RECOMMENDATION OF NORTHERN LOCAL PLANNING COMMITTEE HELD ON 8 OCTOBER 2010 RELATING TO PLANNING APPLICATION NO 10/0345/PP: ERECTION OF 20 WIND TURBINES, CONSTRUCTION OF ACCESS TRACKS, CRANE HARDSTANDING, A TEMPORARY CONSTRUCTION COMPOUND, BORROW PITS, ONE METEOROLOGICAL MAST, ON-SITE CONTROL ROOM, ELECTRICAL SUB-STATION AND COMPOUND AT COWANS LAW, MOSCOW BY COMMUNITY WINDPOWER LTD (Item 3, Page 1387, 07/12)

- 11.1 There was submitted a report dated 12 October 2010 (circulated) by the Executive Director of Finance and Corporate Support which informed Council of the recommendation of the Northern Local Planning Committee held on 8 October 2010 regarding the above planning application for Council to determine the application for planning permission in terms of the Scheme of Delegation on the grounds that the application under consideration proposed a major development as defined in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 that were considered significantly contrary to the Development Plan.

Fiona Finlay, Principal Planning Officer, spoke to the report and advised that the appellant had now withdrawn the appeal for the larger site of 25 turbines from the Scottish Government's consideration. The Principal Planning Officer also advised that following the Northern Local Planning Committee's consideration of this application, in terms of the Adopted East Ayrshire Local Plan, the Alteration to the Local Plan had superseded the 2003 Local Plan as it had been formally adopted on 26 October 2010. The Principal Planning Officer advised that Section 6 in the Appendix to the report was now therefore no longer relevant and asked Members to disregard paragraphs 6.6 to 6.14 and in terms of Local Plan Policy the relevant paragraphs were now 7.2 to 7.10. The Principal Planning Officer then advised that the application was contrary to the newly Adopted Local Plan as it was located outwith the Preferred Area of Search for Windfarms, would have significant adverse visual and landscape impact including cumulative impact in addition to the adverse impact upon the residential amenity of nearby properties and surrounding communities and it was also considered that the limit of acceptable cumulative impact had been reached and the surrounding area should be afforded significant protection. The Principal Planning Officer then referred to the reasons for refusal and that in terms of Reason 7, due to the 2003 Adopted Local Plan now being superseded, it was recommended that if Members chose to refuse consent, the wording of this reason be amended to read "the proposed development is inappropriate as the proposal would result in an adverse visual impact in terms of the layout and design of turbines on the landscape". The Principal Planning Officer advised that in terms of the remaining reasons for refusal which referred to the Alteration to the East Ayrshire Local Plan, that all references in the reasons should be amended to take cognisance of the changed circumstances of the Local Plan and that reference should be made to the East Ayrshire Local Plan 2010.

Councillor Buchanan, seconded by Councillor Reid, moved:

- (i) that the application be approved as the development would provide 80 local jobs during the construction stage; would benefit local companies for the supply and services for the construction site; would produce a developer contribution of £250 per megawatt; would contribute to community benefit for Galston and the new primary school; and would produce an £8m benefit to the Ayrshire economy; and that concerns regarding the impact on the environment could be covered by appropriate conditions; and
- (ii) that it be remitted to the Head of Planning and Economic Development to attach appropriate conditions and that Heads of Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 be concluded prior to the issue of consent comprising those matters detailed in Section 8.2 of the Appendix to the report.

Councillor Todd, seconded by Councillor John McGhee, moved as an amendment to support the recommendations from the Northern Local Planning Committee taking cognisance of the changes to the reasons for refusal as reported by Fiona Finlay, Principal Planning Officer, and to therefore refuse the application for the following reasons, viz:- (i) The development is contrary to Ayrshire Joint Structure Plan Policy ECON 6 as it cannot be demonstrated that there will be no significant adverse impact, including adverse cumulative impacts and that the design of the development is sensitive to landscape character; (ii) The development is contrary to Ayrshire Joint Structure Plan Policy ECON7 (A) and Policy CS14 (A) of the East Ayrshire Local Plan 2010 as the proposal does not satisfy all other material considerations in terms of national planning policy and guidelines in terms of the significant unacceptable adverse visual and landscape impacts on nearby communities and on the surrounding area; (iii) The development is contrary to Ayrshire Joint Structure Plan Policy ECON7 (D) and Policy CS12(ii) and CS14(D) of the East Ayrshire Local Plan 2010 as the proposal would result in significant and adverse cumulative impacts on the landscape and visual amenity and the limit of acceptable cumulative impact has been reached and the area should be afforded significant protection; (iv) The development is contrary to Ayrshire Joint Structure Plan Policy ECON7 (G) and Policy CS14(G) of the East Ayrshire Local Plan 2010 as the proposal would result in significant and adverse cumulative impacts on the visual and landscape amenity and communities; (v) The development is contrary to Ayrshire Structure Plan Policy ENV1 (A) and (E) and the East Ayrshire Local Plan 2010 Policy ENV15(vi) as the proposal results in a significant adverse effect on communities and skylines within the landscape; (vi) The proposal does not comply with Policy CS12(ii) of the East Ayrshire Local Plan 2010 as the development will result in significant adverse visual dominance on the landscape and on the residential properties on Hareshawmuir Road, thereby adversely affecting the residential amenity of the area; (vii) The proposed development is inappropriate as the proposal would result in an adverse visual impact in terms of the layout and design of turbines on the landscape; (viii) The development is contrary to the East Ayrshire Local Plan 2010 Policy ENV17(iv) in terms of a significant unacceptable adverse visual impact on the corridor along the A719 and on the residential properties along Hareshawmuir Road.

On a division by a show of hands, the amendment was carried by 21 votes to 4.

**RECOMMENDATION OF SPECIAL SOUTHERN LOCAL PLANNING COMMITTEE
HELD ON 15 OCTOBER 2010 RELATING TO PLANNING APPLICATION
NO 09/0130/FL: PROPOSED INSTALLATION OF 33 KV UNDERGROUND
CONNECTION FROM PROPOSED 132 KV SUBSTATION AT BLACK HILL
TO PROPOSED WINDFARM SUBSTATION (PENCLOE), SOUTH OF
NEW CUMNOCK (PART D4) PART OF THE SOUTHWEST SCOTLAND
RENEWABLES PROJECT BY SCOTTISH POWER
(SCOTTISH POWER TRANSMISSION LTD) (Item 2, page 1367, 07/12)**

11.2 There was submitted a report dated 18 October 2010 (circulated) by the Executive Director of Finance and Corporate Support which informed Council of the recommendation of the Special Southern Local Planning Committee held on 15 October 2010 regarding the above planning application and for Council to determine the application for planning permission in terms of the Scheme of Delegation on the grounds that the application under consideration represented part of a national development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

Hugh Melvin, Principal Planning Officer, spoke to the report and advised that Dalmellington Community Council had lodged a late objection which could not be taken into account. The Principal Planning Officer also advised that the Council had been made aware of a further letter of objection which had been sent to the Scottish Government, Energy Directorate, and that this matter would be for Scottish Ministers to determine. The Principal Planning Officer further advised that following the Southern Local Planning Committee's consideration of this application, in terms of the Adopted East Ayrshire Local Plan, the Alteration to the Local Plan had superseded the 2003 Local Plan as it had been formally adopted on 26 October 2010. The Principal Planning Officer advised that since the writing of the original committee report, the East Ayrshire Local Plan 2010 had been formally adopted. As a consequence of this, all policy references in Section 6 of the Appendix to the report now relate to development plan considerations under the East Ayrshire Local Plan 2010 and paragraphs 7.3 and 7.4, relating to the now superseded local plan should be disregarded.

Discussion then took place regarding the impact on the local communities and the road network during the construction period for the project as the development would generate a significant number of traffic movements along the routes being used for the removal of felled timber from the development area and the delivery onto the construction site of materials and project components. Concerns were also raised regarding the public safety due to the large increase in traffic movement during the construction phase.

Concerns were also raised regarding whether the local Community Councils and the communities in general were fully aware of the impact the development would have within their local communities during the construction phase.

Some Members who had attended the Hearing at the Southern Local Planning Committee on 15 October 2010 also raised concerns that they were unable to question the applicant's representative as he did not wish to address the Committee on the day and neither the consultees or objectors were present or represented.

A further suggestion was made that other methods of timber transport should be investigated, perhaps through the rail network, which could ease the traffic impact on the roads.

Members required confirmation of whether this application could be continued and that Scottish Ministers be asked to hold a Public Inquiry into the matter.

ADJOURNMENT/RECONVENTION

The Council meeting adjourned at 1227 hrs and reconvened at 1316 hrs with the same Members and officers present and in attendance with the exception of Councillors Linton, Buchanan, Cree, McIntyre, Hugh Ross, Brown and officers, Graham Short, Executive Director of Educational and Social Services and Fiona Finlay, Principal Planning Officer.

The Head of Legal, Procurement and Regulatory Services referred to the enlarged plan circulated to Members on the proposed windfarm sub-station location and surrounding area and then explained the detail of the planning application before Council for determination which formed a wider project which collectively was a national development identified in the National Planning Framework for Scotland; explained that the vehicle movements over the construction phase related to the wider project and not purely the application before the Council meeting for determination and provided advice on the options for consideration of the matter which would perhaps allay Members' concerns.

Following further discussion on the application, Council agreed to continue consideration of the matter and meantime to:

- (i) write to the Scottish Ministers to request that a Public Local Inquiry be held into the overall project in order that full public consultation could be carried out on the overall project due to the very significant concerns which the Council had in respect of the possible effect of the heavy volume of construction and timber traffic involved in the project on the surrounding public road network; that the Council had continued the application meantime; and to also indicate that whilst the Council Members were not opposed in principle to the application they were hopeful that their very significant concerns regarding traffic impact could be considered and mitigated against; and
- (ii) request officers to carry out an investigation into the use of alternative methods for transportation.

The meeting terminated at 1356 hrs.