

Received 25/10/07



cc  
Chief Executive

East Ayrshire  
COUNCIL

**CALL-IN NOTICE**

**FAO CHIEF EXECUTIVE** (To be received not later than 12 noon on the Thursday in the week following the date of Cabinet meeting)

**EAST AYRSHIRE COUNCIL**

**REQUEST TO "CALL IN" A DECISION OF CABINET**

|  |                        |
|--|------------------------|
| <b>DATE OF CABINET MEETING:</b>  | <b>24 OCTOBER 2007</b> |
| <b>DECISION TO BE "CALLED IN"<br/>(AGENDA ITEM NO AND TITLE)</b>   |                        |
| AGENDA ITEM 3 – WINDFARM POLICY  |                        |
| <b>REASON(S) FOR DECISION BEING<br/>"CALLED IN"</b>  |                        |
| 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 lead 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. |                        |

We, the undersigned, in accordance with the agreed procedures, wish the above decision of the Cabinet to be called in prior to implementation.

| <b>NAME OF COUNCILLOR</b> | <b>SIGNATURE</b> |
|---------------------------|------------------|
| *1. K. ROSS               |                  |
| 2. JOHN KNAPP             |                  |
| 3. JAMES KELLY            |                  |
| 4. WILLIAM MENZIES        |                  |
| 5. A. MCINTYRE            |                  |

\*The first signatory will be regarded as the principal signatory.

**EAST AYRSHIRE COUNCIL**  
**CABINET – 24 OCTOBER 2007**  
**WINDFARM POLICY**

**Report by the Depute Chief Executive/Executive Director of Corporate Support**

**1. PURPOSE OF REPORT**

- 1.1 To seek Cabinet 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. BACKGROUND**

- 2.1 The Consultative Draft of the Alteration to the East Ayrshire Local Plan, approved by the former Development Services Committee in August 2006 includes a policy on windfarms (Policy CS16), which states:

*The Council will, if mindful to grant planning permission for a commercial windfarm development, expect applicants to contribute by agreement to a dedicated Trust Fund which will be used to finance community improvements. 70% of all contributions received will be directed to improvement projects within 10 kilometres of the boundary of the windfarm, with 30% being reserved for use in the wider East Ayrshire area. Contributions will be payable annually and be set at a standard rate of £2500 per megawatt of energy produced per annum, index linked to prices as of 01 January 2005. Contributions to the Trust Fund will not be treated as material considerations in the Council's assessment of the application to which they relate.*

- 2.2 A number of representations from the development industry and members of the community have been made to this draft policy, specifically with regards to the dispersal of funds and, therefore, it is considered prudent to carry out a review and, if appropriate, amend the policy.
- 2.3 Cabinet will also recall a recent report on Whitelee Windfarm (22 August 2007) which approved the dispersal of contributions from that windfarm for the first 31 months to the Whitelee Forest Access Action Plan. No approvals for longer term dispersal of contributions are in place beyond this period pending a consistent consideration of a corporate approach to all windfarms in East Ayrshire being formulated and adopted.

**3. POLICY REVIEW**

- 3.1 The draft policy states that financial contributions received from windfarms will be dispersed 70% to the local area and 30% for use in the wider East Ayrshire area. Representations from some local communities, have been made that contributions from windfarms should be targeted to those residents/communities most affected by the windfarm in terms of visual impact,

construction works etc. Indeed, it has been suggested that all of the financial contribution should be targeted at the local area. However, given the level of windfarm contributions which could be forthcoming, it is considered that this approach would not necessarily secure maximum benefits of the monies nor secure added value.

- 3.2 In reviewing the policy and considering the representations received, it is recommended that all the financial contributions from windfarms should be targeted within the particular local area in which they are proposed for an initial 5 years period. This approach would allow for significant projects to be developed within the local area and contributions to be maximised in terms of match funding. It would also ensure that those communities most affected by the windfarm are given priority on contribution spending. After the initial 5 year period, it is recommended that contributions are dispersed between the local community and the wider East Ayrshire area. In this case, it is suggested that the contributions are disbursed 50% for the local area and 50% for East Ayrshire wide projects. It is worth noting, that in calculating worked examples based on Whitelee Windfarm figures, there is no financial difference in contributions being front-loaded in the first 5 years and a 50/50 ratio being applied thereafter and a 70/30 ratio being applied for the full term of the windfarm.
- 3.3 In recognition of this it is important to allow an extension beyond 10km in exceptional circumstances where for example there is no local community within the 10km radius that could benefit from projects. The consultative windfarm contributions draft policy defines the local community as being the area within a 10km radius of a windfarm. However, because of the very nature of windfarms, residents living in excess of 10km could also have their visual amenity affected while residents in closer proximity may not be able to see the turbines but may be adversely affected by construction traffic etc. Nonetheless, it is considered important to identify a radius for the local community and it is felt that the existing 10km radius is appropriate and reasonable.
- 3.4 Having undertaken consultation with other Councils and windfarm operators, it is considered that a standard rate of £2500 per megawatt of energy produced per annum is deemed an appropriate level of contribution. It is suggested that contributions should be index linked to prices as of 1<sup>st</sup> January 2007 to ensure the value of the contributions are relative in 25 years time. This should be reviewed by the Cabinet on an annual basis.
- 3.5 The Consultative Draft Local Plan also states that a dedicated Trust Fund will be established to finance community improvements. Having considered this further and in the light of growing experiences, it is suggested that establishing an East Ayrshire wide Renewable Energy Fund would be more appropriate if formally controlled by the Council. The establishment of a Renewable Energy Fund could operate similarly to a trust although control and decision making powers would be retained within the Council, thus ensuring maximum benefit and additional financial leverage for the contributions from other external and internal partners and ensuring democratic accountability. It is recommended that a single Renewable Energy Fund be established for the whole of the East Ayrshire area.

- 3.6 In light of the foregoing, it is recommended that consideration should be given to amending the wording of the windfarm policy in the Finalised Alteration to the East Ayrshire Local Plan to reflect the above approach. In this regard, it is recommended that the Cabinet agrees that the following policy wording be incorporated into the finalised version of the Alteration to the East Ayrshire Local Plan for full consideration along with other provisions of the Local Plan Alteration, at a future date:

*The Council will, if mindful to grant planning permission for a commercial windfarm development, require applicants to contribute by agreement to a dedicated Renewable Energy Fund which will be used to finance sustainable environmental projects, particularly those designed to help reduce carbon emissions and counteract global warming. For a period of 5 years from the commencement of construction work on the windfarm, all contributions will be directed exclusively to local projects within 10 kilometres of the boundary of the windfarm. Thereafter, 50% of the contributions received will be directed towards local projects with 50% being reserved for use in the wider East Ayrshire area. Contributions will be payable annually and be set at a standard rate of £2500 per megawatt of energy produced per annum, index linked to 1 January 2007.*

#### **4. DISPERSAL OF WINDFARM MONIES IN PRACTICE**

- 4.1 It is proposed that the Council will administer all windfarm contributions in East Ayrshire. The Council will ensure the dispersal of windfarm contributions within the appropriate local area for the first 5 years and, thereafter, administer the dispersal of contributions between the local area and the wider area. Grant applications will be sought for all projects and a scoring matrix will be developed to help identify eligible projects.
- 4.2 It is recommended that projects eligible for grant assistance should be sustainable environmental projects e.g.
- Environmental improvements
  - Environmental educational projects for schools
  - Improvements to local service provision, such as rural community transport

With priority given to

- Community projects related directly to use of renewable energy and reduction of carbon footprints e.g. installation of micro-renewables including wind turbines, solar panels, bio fuels, community recycling initiatives
- 4.3 It should be noted that revenue funding for community projects is often difficult to secure from external and internal funding sources and this can jeopardise

worthwhile projects. As such, it is proposed that the Renewable Energy Fund should be used to provide both capital and revenue funding, where appropriate, for the types of projects set out in paragraph 4.2 above.

## **5. WHITELEE WINDFARM**

- 5.1 As intimated in paragraph 2.3 above, approval has been given for the dispersal of the first 31 months of Whitelee Windfarm contributions to the Whitelee Access Action Plan. In order to ensure a consistent approach for all windfarms in East Ayrshire, it is recommended that the remainder of the first 5 year period (29 months) contributions will be dispersed in the local area (within 10km of the boundary of the windfarm) and thereafter dispersed 50%/50% within the local/wider area. This dispersal does not preclude future funding being directed towards access works. However, any access proposals would require to compete in the bidding process with funding requests for all other eligible projects. For the avoidance of doubt, all Whitelee contributions will be administered by the Renewable Energy Fund.

## **6. LEGAL IMPLICATIONS**

- 6.1 It is anticipated that Section 75 Agreements will be required to be drafted for any future windfarms.

## **7. COMMUNITY PLANNING ISSUES**

- 7.1 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.

## **8 RECOMMENDATIONS**

- 8.1 It is recommended that Cabinet:
- i) agrees that the revised policy relating to windfarm contributions as detailed in paragraph 3.6 above, 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 of the Finalised Plan.
  - ii) agrees the establishment of a Renewable Energy Fund to be dispersed by Cabinet in accordance with criteria set out in para 4.2; and
  - iii) agrees the dispersal of Whitelee Windfarm contributions beyond the initial 31 month period.

**Elizabeth Morton**  
**Depute Chief Executive/Executive Director of Corporate Support**

8 October 2007 (AB/SA)  
FV

## **BACKGROUND PAPERS**

- Whitelee Windfarm – Cabinet Report 22<sup>nd</sup> August 2007
- Consultative Draft Alteration to East Ayrshire Local Plan - Development Service Committee. August 2006.

Any person wishing further information on this report should contact Alison Brown, Developer Contributions Officer on Tel No (01563) 576253

***Implementation Officer: Alan Neish, Head of Planning and Economic Development***

**GOVERNANCE AND SCRUTINY COMMITTEE:  
PROCEDURE FOR CONSIDERATION OF CALLED IN CABINET DECISIONS**

The procedure to be followed at meetings of the Governance and Scrutiny Committee in relation to Cabinet decisions called in for consideration is as follows:-

1. The Chair will introduce the Agenda item in the normal way and immediately follow on by outlining the stages of the procedure as outlined hereunder.
2. The Chair will invite the five signatories to the call in notice and Cabinet portfolio holder(s)/Senior Officer(s) to be appropriately seated at the meeting table.
3. The five signatories to the call in (or any of them who wish to speak) will have the opportunity to address the Committee to explain their call in request.
4. The relevant Cabinet portfolio holder(s), accompanied by the appropriate Senior Officer(s) will then outline the reason(s) for the Cabinet's decision.
5. Members of the Governance and Scrutiny Committee will then have the opportunity to put questions to, and seek clarification on matters raised during stages 3 and 4 above from, any of the five signatories to the call in request and/or the relevant portfolio holder(s) and the Senior Officer(s).
6. The Chair of the Governance and Scrutiny Committee will inform all parties present of the final stages to the call in process.
7. The five signatories to the call in notice as appropriate and the relevant portfolio holder(s) and Senior Officer(s) will then return to the public gallery.

7 November 2007

SN/FM