

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 07 OCTOBER 2011

09/0001/S36 - PROPOSED ERECTION OF 39 WIND TURBINES AND ASSOCIATED WORKS FOR HARELAW RENEWABLE ENERGY PARK, COMPRISING TWO METEOROLOGICAL MASTS, CONTROL BUILDING/SUBSTATION, TEMPORARY CONSTRUCTION COMPOUND, FORMATION OF ACCESS TRACKS AND UPGRADING OF EXISTING TRACKS ON LAND AT GLENOUTHER MOOR NORTH OF KILMARNOCK

APPLICATION BY GAMESA ENERGY UK Ltd

Report by Head of Planning and Economic Development

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The development proposes the following:

- 39 wind turbines of up to 118 metres to tip height (i.e. height from ground level to the tip of the blade when vertical) offering maximum 117MW capacity
- hardstanding area at each turbine base
- on site access tracks and associated watercourse crossings
- substation building and substation compound with approximately 40 roof mounted photovoltaic cells
- two meteorological masts (up to 80 metres in height)
- 30.7km of on site access track, 23.2km of new track, 7.5km upgrades to existing track. 2.3km of the track will be floating road over peat
- on site underground cabling
- abnormal load turbine delivery will only occur via the M77 and A77 from the access at Brown Castle in East Renfrewshire
- construction traffic will access the site from the A77 at Floak and at Black Hill and Bannerbank Farm from the B769 in East Renfrewshire
- keyholing of Glenouther Forest for the turbines and restoration of blanket bog habitat in cleared areas with no development

1.2 The majority of the development site is located within Glenouther Forest, a commercial forest and it is proposed to incorporate existing forest tracks into the design of the proposed development.

1.3 The applicant states that 50% of the stone required for the development will be sourced from Bannerbank Quarry which can be accessed from the B769 road in East Renfrewshire and 50% of the stone supplied from Floak Quarry which can be accessed via tracks within the application site thus avoiding the use of public roads.

1.4 During the construction phase, road access is proposed to the site from existing accesses at Floak on the A77 and at Bannerbank Farm on the B769 Dodside Road, both

located within East Renfrewshire. A new access is proposed to be formed from the B769 road at Black Hill within East Renfrewshire.

1.5 It is proposed to transport 67% of the required stone from Bannerbank Quarry, south along the B769 road to the proposed new access at Black Hill. The remaining 33% of stone will be transported from Bannerbank Quarry onto the B769 and then north via Malletsheugh Road and then south via the A77 to the existing access at Floak. From the submitted information the majority of the stone transport routes are on public roads located within East Renfrewshire.

1.6 The turbine components (towers, nacelles and blades) will be delivered to Griffin Dock in Port of Ayr harbour which will then be transported via the M77 and A77 and onto the access at Brown Castle. The access at Brown Castle will only be used for delivery of abnormal loads.

1.7 The wind farm proposal comprises 39 three bladed horizontal axis wind turbines. It is proposed to finish the turbines in a pale matt grey/off white colour. The turbines are computer controlled to ensure that at all times each turbine faces directly into the wind. Each turbine will reach a maximum height of 118 metres from base to blade tip. Turbines with a rating of up to 3.0 megawatts are under consideration for the proposed wind farm.

1.8 The Further Information Report indicates at Figure 7.2 that a construction compound will be sited south of Floak within East Renfrewshire with the control building, substation compound and temporary infrastructure compound sited north of Picketlaw within East Renfrewshire.

1.9 The application covers a 25 year period of operation, following final commissioning. The construction period for the proposed development is anticipated to be 18 months and decommissioning is expected to take a further six months.

1.10 The Section 36 application is accompanied by a comprehensive Environmental Statement, Environmental Statement Addendum and a Further Information Report that covers a wide range of environmental considerations particularly in respect of landscape and visual impact, impact on the natural and built environment and cumulative impact.

1.11 In terms of socio-economic benefit, the applicant indicates that beneficial effects have been identified during the construction phase for on site employment and service provision to the local and wider economy. The applicant estimates that during the 18 month construction period the proposed development could support in the region of 67 short term jobs.

1.12 In terms of operation of the proposed development the applicant estimates that over the 25 year operational phase of the wind farm one full time worker equivalent post would be generated.

1.13 As part of the wind farm development, the applicant states that they are committed to the concept of community benefit and will adhere to any clear recommendations set out by East Ayrshire Council.

2. RECOMMENDATIONS

2.1 It is recommended that the Council formally objects to the proposal as the proposed development is contrary to the terms of the Development Plan, Scottish Planning Policy and Government Guidance on wind farm development for the reasons detailed on the sheet attached to this report and;

2.2 It is recommended that a copy of this report be forwarded to the Scottish Ministers as presenting this Council's formal response to the consultation on the Section 36 application for the Harelaw Renewable Energy Park development in terms of the Electricity Act 1989.

3. CONCLUSIONS

3.1 As indicated in section 6 of the report, the Section 36 application and the related application for deemed planning permission are not considered to be in accordance with the development plan. As is indicated at Section 7 of the report, there are material considerations relevant to this application; it is considered that these are not supportive of the application in terms of national policy and planning advice.

3.2 The proposed Harelaw wind farm development does not comply with policy ECON6 and ECON7 parts (A), (D) & (G) of the Ayrshire Joint Structure Plan 2007. Furthermore the proposal does not comply with policy CS12 (ii),(iv); CS14(E); ENV16(i), (ii) and ENV17(iv) of the East Ayrshire Local Plan 2010.

Assessing the proposals against the development plan it is considered that the proposal:

- presents unacceptable visual and landscape impacts in terms of the setting of the proposed wind farm within the immediate wider landscape and the significant adverse impacts on residential amenity
- presents unacceptable adverse cumulative impacts when considered by itself and in conjunction with the existing, authorised and proposed wind farms within the vicinity of the site

3.3 The proposed development, together with other existing wind farm developments (existing, consented and proposed) will provide a generating capacity that would meet a significant portion of the Scottish Government's renewable energy 2020 target placing a disproportionate burden on the local communities in East Ayrshire in satisfying national energy requirements. This is of particular relevance when considering the contribution already made by East Ayrshire in terms of existing renewable energy production as currently, Whitelee windfarm is the largest onshore wind farm in Europe with the majority of the turbines located in East Ayrshire and also in terms of the contribution through the production of other operational wind farms and the production of opencast coal, with consented reserves being greater than that of any other part of the UK.

3.4 It is recognised that the proposed development would result in potential socio-economic benefits through the following:

- the preparation of a Habitat Management Plan that, in terms of proposed mitigation of adverse impacts on the natural environment, would deliver positive benefits to managed areas through increased biodiversity;
- the potential developer contributions to the Council's Renewable Energy Fund
- the potential developer contributions for compensation for loss of woodland
- the significant benefits accruing from the significant investment that potentially would generate economic benefits and temporary employment opportunities in the East Ayrshire economy

3.5 Taking all matters into account the potential benefits to be accrued from the proposed development do not in this instance outweigh the significant adverse unacceptable impacts of the proposal on the landscape character, residential amenity and visual amenity that would result from the Harelaw wind farm in the form in which it is proposed.

3.6 Taking all relevant matters into consideration, it is considered on balance that the Council should offer an objection to Scottish Ministers to the Harelaw Renewable Energy Park development.

Alan Neish
Head of Planning and Economic Development

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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APPLICATION BY GAMESA ENERGY UK Ltd

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1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for the consideration of the Local Planning Committee under the scheme of delegation a formal consultation from the Scottish Ministers on an application made under Section 36 of The Electricity Act 1989 for the proposed Harelaw Renewable Energy Park development at Glenouther Moor on land to the north of Kilmarnock and for the Local Planning Committee to take a formal view on the proposed development.

2. BACKGROUND INFORMATION

2.1 The Scottish Ministers are responsible, under Section 36 of the Electricity Act 1989, for the authorisation of any new electricity generation scheme with a generation capacity in excess of 50 Megawatts (MW). As the current proposal for the Harelaw Renewable Energy Park development has an installed capacity of up to 117 MW, East Ayrshire Council has been formally consulted by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989.

2.2 The Council is a formal consultee in this process and a copy of the application has been served on the Council by Scottish Government, Directorate for Energy and Climate Change and also by the applicant in terms of Schedule 8 of the Electricity Act 1989. In procedural terms the Council, as Planning Authority, requires to respond to the Scottish Ministers on those aspects for which the Council has responsibility. In this regard the Council in response to the consultation can either:

- (i) offer no objections to the Section 36 application as submitted; or
- (ii) offer no objections, subject to modifications and/or the imposition of appropriate conditions it considers necessary to make the development acceptable; or
- (iii) formally object to the application, stating the grounds on which objection is made.

2.3 The Section 36 application for the Harelaw Renewable Energy Park was lodged with the Scottish Ministers in May 2009 together with a comprehensive Environmental Statement as required under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 for 39 turbines, 40 photovoltaic cells and associated works.

2.4 Following feedback on the original application the plans were revised redesigning the layout of the proposed wind farm which included a reduction from 40 to 39 turbines. To take account of the amended proposal an Addendum to the Environmental Statement was submitted by the developer to the Scottish Government in November 2010.

2.5 Initial feedback from the Environmental Statement Addendum 2010 indicated that further information was required. In May 2011 under Regulation 13 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 the Scottish Government requested that the developer submit a further information report.

2.6 In July 2011 a Further Information Report (FIR) was submitted by the developer. In order to comprehensively assess the application for the wind farm the FIR requires to be assessed in conjunction with the Environmental Statement dated May 2009 and the Environmental Statement Addendum dated September 2010.

2.7 Should the Scottish Ministers be disposed to grant a Section 36 consent for Harelaw wind farm, the applicant has requested that deemed planning consent be granted in terms of Section 57 of the Town and Country Planning (Scotland) Act 1997. A separate application for planning permission would not therefore be required for the proposed development.

3. APPLICATION DETAILS

3.1 **Site Description:** The Section 36 application site lies approximately 6.0 kilometres north of Kilmarnock and covers approximately 40.6 hectares. The application site covers land in both East Renfrewshire and East Ayrshire, with the majority of the site located in East Ayrshire stretching from Glenouther Moor adjacent to the M77 in the east, to Gabroc Hill to the west.

3.2 The landscape of the part of the site located in East Ayrshire is characterised by predominantly plateau commercial forestry on Glenouther Moor, presenting an open and gentle landform, and extends to a more rural agricultural landscape towards Gabroc Hill with groupings of residential and farm buildings. The part of the site at Gabroc Hill has the gentler sloping topography found in the upper slopes of the Ayrshire Basin. The northern part of the site towards East Renfrewshire forms a more sensitive knolly landscape in particular at Blackloch Hill and Nether Cairn.

3.3 The application site is bisected by the B769 classified road which links Stewarton to Newton Mearns in East Renfrewshire, and by the C108 road near Gabroc Hill. The site does not include any designated landscape areas or buildings with any statutory designation. From the north the application site stretches from the Harelaw Dam and Little Loch in East Renfrewshire to the southern edge of Glenouther Moor in East Ayrshire.

3.4 **Proposed Development:** The development proposes the following:

- 39 wind turbines of up to 118 metres to tip height (i.e. height from ground level to the tip of the blade when vertical) offering maximum 117MW capacity
- hardstanding area at each turbine base

- on site access tracks and associated watercourse crossings
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3.7 During the construction phase, road access is proposed to the site from existing accesses at Floak on the A77 and at Bannerbank Farm on the B769 Dodside Road, both located within East Renfrewshire. A new access is proposed to be formed from the B769 road at Black Hill within East Renfrewshire.

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3.13 The Section 36 application is accompanied by a comprehensive Environmental Statement, Environmental Statement Addendum and a Further Information Report that covers a wide range of environmental considerations particularly in respect of landscape and visual impact, impact on the natural and built environment and cumulative impact.

3.14 In terms of socio-economic benefit, the applicant indicates that beneficial effects have been identified during the construction phase for on site employment and service provision to the local and wider economy. The applicant estimates that during the 18 month construction period the proposed development could support in the region of 67 short term jobs.

3.15 In terms of operation of the proposed development the applicant estimates that over the 25 year operational phase of the wind farm one full time worker equivalent post would be generated.

3.16 As part of the wind farm development, the applicant states that they are committed to the concept of community benefit and will adhere to any clear recommendations set out by East Ayrshire Council.

4. CONSULTATIONS AND ISSUES RAISED

4.1 Consultations have been carried out by this Service and by the Scottish Government, Directorate for Energy and Climate Change, Energy Division. The responses received in connection with the consultations issued by this Service are summarised for the purposes of this report. The wider responses received by the Scottish Government are available for inspection as background papers.

4.2 East Ayrshire Environmental Health Service states that the developers' submission, being carried out in accordance with the ETSU-R97 document, should be considered acceptable. It must be stressed that the proposed development should, when considered with those developments for which consent has already been granted, result when constructed in a cumulative noise level at sensitive receptors of no greater than the 40dB daytime and 43dB night-time levels which are usually consented. Additionally, it is noted that some proposed turbines are closer to receptors than 800metres, and the developer should re-examine the proposal to remove/re-site these outwith the 800 metre distances required.

Whilst the developer has undertaken a noise assessment that complies with Government guidance (in accordance with ETSU-R97) it is noted that some turbines are located within 800 metres of residential properties and that this issue raises concern over potential for noise nuisance to residents of these properties. Indeed representations received in connection with the application raises objection to the proposal as a result of adverse noise pollution and nuisance.

Should Scottish Ministers determine to consent the development as proposed, careful consideration requires to be undertaken to provide appropriate planning conditions that would successfully mitigate the potential for noise complaint.

4.3 East Ayrshire Council Roads and Transportation Division - Section 7 of the Further Information Report clarifies the quarries to be used for the quarried stone necessary for the development and the proposed stone transport routes. As the proposed quarries are now both within East Renfrewshire and the access roads from these quarries to the application site are also entirely contained within the East Renfrewshire boundary there will be no requirement for East Ayrshire Council to enter into a Section 96 Legal Agreement with the Developer. There are no other outstanding Roads issues that would be of concern to East Ayrshire Council Roads and Transportation Service.

4.4 East Renfrewshire Council - has not, to date, included the proposal on an agenda for planning committee.

4.5 Glasgow Prestwick International Airport (GPA) indicates its position of non objection, as outlined in its letter of 13 January 2011, remains unchanged. As stated previously GPA has determined that although this proposal will be detected by its radar this is an area that is not critical to GPA and any clutter generated on our display screens as a result can be tolerated.

GPA takes comfort in the mitigation solution proposed in the Further Information Report to remove NATS and BAA objections by use of a Kincardine feed and is satisfied that this will protect GPA. In the unlikely event that this mitigation fails, GPA is confident any impact on GPA as a result of procedural adaptations Glasgow Airport would have to make can be managed between BAA and GPA.

4.6 National Air Traffic (NATS) NERL Safeguarding confirms that whilst they are holding discussions with the developer to mitigate the impact of the proposed wind farm, NATS formal response remains an objection to this proposal. Section 9.5 of the Harelaw Renewable Energy Park Further Information Report issued in July 2011 states the following:

“A solution to the resolution of the NATS objection has been found which will protect the interests of Glasgow and Prestwick airports. Formal contracts and agreed timescales will be agreed by NATS and Gamesa in the near future and at that point NATS will advise East Ayrshire Council that they will withdraw their objection.”

For the avoidance of any doubt NATS would like to clarify that until a formal contract has been agreed and put in place between NERL and the developer our position is to object to the development.

Any view presented by the Council on the proposed Harelaw Renewable Energy Park development should be qualified to ensure that:

(i) the Section 36 Consent and Deemed Planning Consent should not be granted by the Scottish Government until a suitable mitigation strategy for aviation impacts has been identified and accepted in writing by NATS;

(ii) any Section 36 Consent should include a condition which prohibits the erection of any Harelaw Renewable Energy Park wind turbine (that is, its tower, nacelle and rotor) until such time as the agreed mitigation has been implemented to NATS's satisfaction

(iii) a Section 75 legal agreement required to be entered into by NATS, the Council and the developer to the effect that no turbine shall be constructed until a suitable mitigation has been identified and is implemented; and

(iv) The developer will meet all costs of developing and implementing a suitable mitigation and all reasonable costs incurred by NATS and the Council in relation to aviation mitigation for Harelaw Renewable Energy Park.

4.7 Civil Aviation Authority (CAA) - NATS En Route Ltd (NERL) is responsible for en route operations and operates the Lowther Hill Radar. They also provide data feeds from their radar structure to various airports on a commercial basis. Glasgow International Airport is operated by BAA Ltd and Glasgow Prestwick Airport is operated by Infratil Ltd. Although the section mentions an objection from NERL, it only discusses the potential impact on airport operations at Glasgow International and Glasgow Prestwick Airports, while not discussing the potential impact on En Route operations (the source of the objection).

There may indeed be acceptable mitigations agreed, or being discussed, for all three Air Traffic Service Providers however, this is not apparent from the report. Consequently, confirmation should be sought from NERL, BAA and Infratil that the proposed mitigations are acceptable. As these operators are all Statutory Consultees under Scottish Government Circular 2/2003, this confirmation should be forthcoming as part of the current consultation.

4.8 BAA Airports - Further to previous correspondence dated 11 January 2011 regarding mitigation involving the use of Kincardine Radar to provide an infill for Glasgow Airport Radar over this site, the technical and operational assessments of utilising Kincardine radar and associated data fusion systems at Glasgow Airport as mitigation for this wind turbine development have been completed and there is a certainty that this technical solution can be extended to mitigate this site.

In the coming weeks BAA will be working with key stakeholders including the Scottish Government Consents Unit, the CAA and NATS to implement the solution. However, in the meantime BAA is prepared to apply the conditions below to any planning approval to ensure some security.

Condition 1 - No development, which is the subject of this permission shall commence on site until measures to prevent the impairment of the performance of aerodrome navigation aids and/or the efficiency of air traffic control services have been

implemented in accordance with details submitted to and approved in writing by the local planning authority, in consultation with the airport operator, and written approval has been obtained from the Civil Aviation Authority(CAA), where appropriate, that the measures as implemented will be sufficient to prevent the impairment of the performance of aerodrome navigation aids.

Condition 2 - Prior to commencement of development the mitigation scheme referred to in Condition 1 shall be fully implemented and maintained in operation until the decommissioning of the wind farm or until the approval of the Local Planning Authority in consultation with the airport operator has been obtained to any amendment to the approved scheme.

Reason: To ensure the development does not endanger the safe and efficient movement of aircraft or the operation of Glasgow Airport through interference with communication, navigational aids and surveillance equipment.

We, therefore, have no aerodrome safeguarding objection to this proposal, provided that the above conditions are applied to any planning permission. You should note that, where a Planning Authority proposes to grant permission against the advice of BAA, or not to attach conditions which BAA has advised, it shall notify BAA, and the Civil Aviation Authority and the Scottish Ministers as specified in the Safeguarding of Aerodromes Direction 2003.

- 4.9 Ministry of Defence (MOD) has no objections.
- 4.10 New Farm Loch Community Council – no response received to the consultation request.
- 4.11 Kilmaurs Community Council - no response received to the consultation request.
- 4.12 Stewarton and District Community Council offered no objections to the proposal but state that the additional information supplied by the developer does address as far as possible the previous issues (TV and telephone services, proximity of turbines to residential properties and value of house prices) raised by the Stewarton Community Council and there is no reason to continue these matters further.
- 4.13 Dunlop and Lugton Community Council - no response received to the consultation request.
- 4.14 Darvel and District Community Council - no response received to the consultation request.
- 4.15 Newmilns and Greenholm Community Council -no response received to the consultation request.
- 4.16 Galston Community Council - no response received to the consultation request.
- 4.17 Moscow Community Council – this community council is already on record as having objected to extending wind farm development beyond what has been approved at Whitelee wind farm. (i.e. Cowans Law and East Kingswell).These 2 other wind farm

developments were refused by East Ayrshire Council and subsequently dismissed at planning appeal. The Reporter at East Kingswell dismissed the appeal on grounds of “a very real and significant local adverse visual and landscape issues.”

The Community is not against renewable energy but objects to a proliferation of wind farms when there is already considerable impact on rural landscape; and these upland developments result in extensive tree felling and peat removal. If turbines were to be erected west of the M77 on Fenwick Moor then the visual impact of tall steel structures on both sides of the main route into Ayrshire would adversely affect the landscape and long views south westwards over Ayrshire and cause nuisance to nearby residents and habitats. The suggestion by the Council and SNH that all of the turbines could be relocated in Glenouther Forest is also objected to, as this would clearly involve even more tree felling and would remove an important shelter belt on the moor.

The Council and the Scottish Government should also consider the real possibility that the other route into East Ayrshire from East Kilbride may well have wind farms on either side of the B764 as a wind farm is currently proposed at Moorhouse in East Renfrewshire.

It is acknowledged that the layout and the design of the proposed wind farm will result in adverse visual impacts on the landscape, especially from Queenseat Hill on the B764 road looking west across the Ayrshire Lowlands to the coast. From this viewpoint the cumulative visual impact of the proposal at Harelaw, the proposed Moorhouse wind farm and Whitelee and Middleton wind farms will result in the provision of a wind farm landscape on this prominent approach into Ayrshire. Effectively altering the perception of the landscape characteristics from rural in nature to and industrialise wind farm landscape.

In addition, the M77 forms the predominant road link to Ayrshire and as such the proposal at Harelaw would result in wind turbines stretching along the western side of the M77 from the hilly landscape at Black Hill to Glenouther Moor. Taking Harelaw in conjunction with Whitelee wind farm to the east of the M77 the overall perception at this location is a motorway corridor with major size and scale of wind turbines situated along both sides of the prominent connecting gateway to Ayrshire.

4.18 Waterside Community Council - no response received to the consultation request.

4.19 Hurlford and Crookedholm Community Council - no response received to the consultation request.

4.20 Southcraigs Community Council – no response received to consultation the request.

4.21 Fenwick Community Council - objects to the proposal. Whitelee wind farm already has considerable visual impact on this part of Ayrshire and another 70 turbines are under construction there. If a further 39 turbines are permitted west of the A77 extending over to the B769 and up towards Glasgow then this area will be overwhelmed by turbines.

Visitors to Fenwick arriving from the north over Fenwick Moor would be greeted by turbines both to the east and to the west of the main route from Glasgow. Such towering metal structures in place of rolling moorland and forests would be overbearing if Harelaw wind farm was permitted.

If turbines were to be shipped into Ayr harbour and then transported by road to the site they would have to be taken beyond Fenwick to Newton Mearns, then moved south via the A77 to access the site. We understand that neither junction 5 on the M77 nor the turn west from the A77 southbound are suitable for these manoeuvres.

It is acknowledged that Whitelee wind farm and the two extensions to Whitelee result in a considerable visual impact in East Ayrshire. Indeed EAC has acknowledged the part this authority contributes to energy provision in Scotland with the contribution made by Whitelee wind farm, other consented wind farms and the contribution made in respect of opencast coal.

As previously stated at part 4.17 of this report the planning authority acknowledges the impact of the proposal at Harelaw in terms of visual impact along the M77 corridor and from the area at Queenseat Hill on the B764 access to Ayrshire. In terms of the turbine delivery route East Ayrshire Council Roads and Transportation Service has not offered any objection to the proposal.

4.22 East Ayrshire Council's Countryside Development Manager - advises that the integration of the proposed wind farm into the existing path network as known from Whitelee wind farm, that the array roads make ideal multi user routes. These routes could be easily connected to our path network and would create a link to Neilston Pad as well as other places of interest in East Renfrewshire a large circular route from Stewarton and across the M77 to Whitelee. Could the construction of these short link paths be undertaken by the wind farm company as part of the planning application?

The applicant has not included any integration of the proposal at Harelaw with the existing Whitelee Access Strategy.

4.23 Scottish Environment Protection Agency (SEPA) – does not object to the development proposal with respect to ground water ecosystems but would request that conditions be attached to any planning consent relating to a construction environmental management plan, waste peat and flood risk.

4.24 Scottish Natural Heritage – SNH's principal advice to the consenting authority is that the Harelaw Renewable Energy Park raises significant concerns in terms of local and regional landscape and visual impacts.

The southern part of the site is generally more open and expansive than the northern part of the site and is therefore much better able to accommodate wind farm development. SNH suggests a single grouping of turbines at Glenouther Moor and removing the turbines from the most sensitive landscape to the north of the site. This would create a development that has a coherent appearance, fits with the character of the nearby

Whitelee wind farm and which limits the visual and cumulative visual impacts on the Glasgow conurbation to the north.

In terms of landscape and visual impacts and cumulative visual impacts the scheme lacks over all coherence and in fact appears like 3 separate wind farms. When viewed alongside other neighbouring schemes and proposals an inconsistent pattern of development appears within a confusing landscape. The northernmost turbines will be most visible on the skyline to the south of Glasgow, resulting in visual impacts in their own right, and in combination with proposed wind farms will result in significant cumulative visual impacts.

SNH advises that should the Scottish Government approve the proposal then conditions in relation to issues of habitat management plan, appointment of an Ecological Clerk of works, mammals survey, retention of western edge of Glenouther forest, badger mitigation plan, methodology for working near water bodies, bird flight diverters and publicly used access routes.

5. REPRESENTATIONS

5.1 The applicant in accordance with the Electricity Act 1989, advertised the application in both national and local newspapers for two consecutive weeks. The Council has been advised by the Scottish Government that a total of 173 objectors and 23 supporters have been received in connection with the application. No neighbour notification is required to be carried out under the Electricity Act 1989 and representations were invited to be sent directly to the Scottish Government.

5.2 With this Section 36 application, it is for the Scottish Ministers to take into account the representations received in the determination of this proposal. Some of the representations include statements on noise and landscape and visual impact provided by professionally qualified consultants.

The main points of objection are summarised for information below and full copies of the representations are available for inspection as background papers.

5.3 The points of objection are summarised as follows:

- further industrialisation of rural landscape, loss of visual amenity.
- no attempt to minimise the landscape and visual effect of the project.
- issues of adverse noise levels details contained in two professionally commissioned reports from objectors. The ETSU Guidelines for noise are 14years out of date and turbines have doubled in size.
- shadow flicker, size and proximity of turbines to residential properties.
- cumulative visual impact with Whitelee wind farm, Middleton wind farm and Moorhouse wind farm.
- Scottish Government guidelines indicate 2km distance for siting turbines from homes.
- adverse impacts on flora, fauna and wildlife.
- electro magnetic fields and health issues (i.e. sleep disturbance, headache, tinnitus).
- detrimental effect on animals and related kennel business.

- development is contrary to Local Plan and to Scottish Planning Policy para. 187.
- adverse effects on TV reception.
- amplitude modulation of wind turbine noise and infrasound (low frequency sound).
- the development will have an significant long term detrimental impact on the amenity of people living near nearby.

6. ASSESSMENT AGAINST DEVELOPMENT PLAN

6.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. Although this is a consultation from the Scottish Ministers and not a planning application, the proposed development should be assessed in a similar context. For the purposes of assessing the proposed development, the development plan comprises the Approved Ayrshire Joint Structure Plan (2007) and the Adopted East Ayrshire Local Plan (2010).

Ayrshire Joint Structure Plan

6.2 On 22 November 2007, the Ayrshire Joint Structure Plan: Growing a Sustainable Ayrshire became operative following modifications made by the Scottish Ministers. Policy ECON6 of the structure plan relates to renewable energy developments and states:

ECON6:Renewable Energy

Proposals for the generation and utilisation of renewable energy should be promoted and will conform to the plan both in stand alone locations and as integral parts of new and existing developments where it can be demonstrated there will be no significant adverse impact, including adverse cumulative impact or infrastructure constraints, and where the design of the development is sensitive to landscape character, biodiversity and cultural heritage.

6.3 With regard to wind energy, the plan states that Ayrshire has above average mean wind speeds and as such is attractive for wind energy generation and, in particular, as a location for wind farm development. The Government has set targets for Scotland of 100% of electricity demand from renewable sources by 2020. To achieve these targets at a local level a significant expansion in the number of wind turbines may be required.

6.4 Given the Government's target, there is an onus to find wind farm locations that would contribute to the overall national supply and take environmental impacts into account. The plan further states, however, that local benefits arising from wind farms can be important to the future economic regeneration of rural communities. To guide wind farm development in a manner that maintains landscape and biodiversity value and safeguards the operational needs of Glasgow and Glasgow Prestwick Airports, two areas of search for large scale wind farm development have therefore been identified, these being South Carrick and Whitelee Forest.

Notwithstanding the governments targets for renewable energy sources the current proposal under consideration fails to comply with the terms of 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. The proposal results in adverse impacts on residential amenity, visual amenity and cumulative visual impacts both by the impact of the proposal itself and in combination with surrounding wind farms.

6.5 ECON7: Wind Farms

(A) In the Areas of Search proposals for large and small scale wind farm development will be supported subject to specific proposals satisfactorily addressing all other material considerations.

Whilst the Harelaw Renewable Energy Park proposal does lie within an Area of Search as defined in the Key Diagram of the Ayrshire Joint Structure Plan 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.

(B) Areas designated for their national or international natural heritage value, and green belts, will be afforded significant protection from large scale wind farms.

There are no areas of national or international heritage value and no green belt areas located within or adjacent to the development site.

(C) The integrity of national and international designations should not be compromised.

There are no areas of national or international heritage value located within or adjacent to the development site.

(D) Cumulative impact will be assessed in all relevant cases, taking into account existing wind farms, those which have permission and those that are subject of valid but undetermined applications. The weight to be accorded to undetermined applications will reflect their position in the application process. Where the limit of acceptable cumulative impact has been reached the area will be afforded significant protection.

The proposed wind farm at Harelaw Renewable Energy Park is located adjacent to Whitelee wind farm which has planning consent for 215 turbines making this site, to date, the largest onshore wind farm in Europe. In addition the proposal at Harelaw is located immediately adjacent to the consented Middleton wind farm in East Renfrewshire and near to the proposed Moorhouse wind farm also located in East Renfrewshire.

The overall design and layout of Harelaw provides the receptor with a view of three separate wind farms on the landscape - the part of the site in Glenouther Moor, the part of the site to the east of Gabroc Hill and the part

of the site located around Black Loch. In this case the most adverse visual impacts occur in relation to the parts of the site located east of Gabroc Hill and at Black Loch.

It is noted that, from the illustrative material (wireframes and photomontages figures 6.67 and 6.68) supplied as part of the submission there would be significant cumulative visual impacts arising from the proposed additional 39 turbines at Harelaw wind farm combined with the Whitelee wind farm, the Middleton wind farm and proposed Moorhouse wind farm as viewed from the B764 at Queenseat Hill in particular. From this aspect the proposed wind farm would result in a cumulative visual impact that would result in an adverse visual effect that would essentially change the landscape from rural in character to a wider wind farm landscape at one of the prominent gateways to Ayrshire. Indeed from this viewpoint the perception of the Ayrshire Lowlands becomes that of a wind farm landscape stretching as far as the coast. The limit of acceptable cumulative impact and the ability of the landscape to absorb further wind farm development has been reached and therefore the area should be afforded significant protection.

When viewed from the west, the proposed wind farm, especially the turbines east of Gabroc Hill (figure 6.51) are sited at an elevated level and are likely to result in adverse visual impacts on the skyline. In addition, viewed from the west (especially from the area around Easter Blacklaw) the cumulative visual impact of the turbines on Glenouther Moor and at Whitelee wind farm result in an unacceptable level of cumulative visual impact, once again the proposed development results in a significant cumulative adverse visual impact on the landscape, turning a rural landscape into a wider industrialised wind farm landscape. The landscape has reached capacity to absorb further wind farm development and the area should be afforded significant protection. Especially to the west of the application site where turbines are located outwith the search area for wind farms as identified in the East Ayrshire Local Plan rural map 2010.

When the proposed wind farm at Harelaw, which is viewed as three separate wind farms is considered together with the turbines of Whitelee, the largest onshore wind farm in Europe; the consented Middleton wind farm and the proposed Moorhouse Farmers wind farm the cumulative visual impact of all turbines combined, particularly from the west and east and parts of the M77, would be considerable, the Harelaw wind farm significantly increasing the horizontal angle subtended by the Whitelee wind farm where these are seen along the skyline.

Consequently the proposal by itself and in conjunction with surrounding wind farms would result in significant and adverse effects on the landscape and visual amenity of the area and would not comply with Policy ECON7(D) of the Ayrshire Joint Structure Plan.

(E) Outside the Areas of Search: all wind farm proposals will be assessed against the following constraints, any positive or adverse effects on them and how the latter can be overcome or minimised:

- Historic environment;
- Areas designated for their regional and local natural heritage value;
- Tourism and recreational interests;
- Communities;
- Buffer zones;
- Aviation and defence interests;
- Broadcasting installations.

The proposal falls within the Area of Search as identified in the Key Diagram of the Ayrshire Joint Structure Plan.

(F) Proposals affecting Sensitive Landscape Character Areas shall satisfactorily address any impacts on the particular interest that the designation is intended to protect but the designation shall not unreasonably restrict the overall ability of the plan area to contribute to national targets.

There are no Sensitive Landscape Character Area designations within the site.

(G) In all cases, applications for wind farms should be assessed in relation to criteria including, as appropriate, grid capacity, impacts on the landscape and historic environment, ecology (including birds), biodiversity and nature conservation, the water environment, communities, aviation, telecommunications, noise and shadow flicker.

The applicant has indicated that the proposed wind farm will contribute approximately 117 MW of energy to the national grid and that an appropriate grid connection point is established.

SNH's consultation response addresses the issues of biodiversity and nature conservation.

SEPA's consultation response addresses the issue of the water environment.

As previously stated the proposal will result in significant adverse visual effects on the character and appearance of the landscape. The proposed wind turbines at Harelaw both by itself and viewed in conjunction with existing and proposed wind farms will result in a significant adverse alteration to the character and appearance of the landscape at this location, effectively altering a rural landscape to a predominantly industrialised wider wind farm landscape.

In terms of communities within East Ayrshire the nearest settlements to the proposed development site are Dunlop and Stewarton, situated approximately 4km and 5km respectively to the west of the proposed site. Whilst it is acknowledged that the proposed wind farm will result in some visual impact on these settlements, the groupings of residential buildings located to the west of the site at Blacklaw (i.e. Townend of Grange, Easter Blacklaw, West Grange Farm and Southgrange) form a small community

and the visual amenity of this small community will be significantly adversely effected by the impact of both the proposed wind farm on its own and in terms of the cumulative visual impact of the proposal viewed with the existing Whitelee wind farm, Middleton wind farm and the proposal at Moorhouse Farmers wind farm.

Indeed the residential property located at Easter Blacklaw has 4 wind turbines located on an elevated position close to the north of the dwellinghouse:

- turbine HA13A within 790 metres***
- turbine HA12 within 820 metres***
- turbine HA14A within 825 metres***
- turbine HA11 within 950 metres***

Similarly, to the east of the site the grouping of the three dwellinghouses at North Drumboy, South Drumboy and Marramead are all situated close to turbines the closest distance being that of turbine HA22 situated merely 490 metres from North Drumboy.

In terms of aviation NATS has objected to the proposal (see part 4.6 of this report)

In terms of noise the Council's Environmental health Service consultation response is indicated at part 4.2 of this report.

In terms of shadow flicker the proposed wind farm results in adverse impacts on residential properties. According to the applicant's submitted information the residential properties at North Drumboy and South Drumboy are likely to suffer the effects of shadow flicker for long durations during late afternoons and evenings throughout the year. It should be noted that in these instances the residential property at North Drumboy is sited within approximately:

***490 metres of the turbine HA22,
640 metres of turbine HA18
640 metres of turbine HA26 and
720 metres of turbine HA21***

The residential property at South Drumboy is sited within approximately:

***540 metres of turbine number HA35
635 metres of turbine HA26
705 metres of turbine HA22 and
920 metres of turbine HA34***

The residential property at Marramead is sited within approximately:

***550 metres of turbine HA22
630 metres of turbine HA18***

**700 metres of turbine HA26
750 metres from turbine HA35 and
770 metres from turbine HA21**

No shadow flicker assessment has been undertaken by the applicant from the dwellinghouses at Easter Blacklaw and at Marramead (situated adjacent to North Drumboy). However it is assumed that given the similar proximity of this residential property to the wind farm that similar adverse effects in terms of shadow flicker are likely to occur at Marramead.

The applicant has provided details of measures to mitigate the effect of shadow flicker on the above properties. However, successful mitigation measures would require to be addressed by an appropriate planning condition should Scottish Ministers decide to approve the application.

In terms of noise the Council's Environmental Health Service has raised concerns regarding potential for noise nuisance from turbines located within 800 metres of residential properties. Should Scottish Ministers decide to consent the proposed development as submitted, careful consideration is required to provide appropriate planning conditions that would successfully mitigate the potential for noise complaint and protect the residential amenity of these dwellinghouses.

Consequently, the proposal would result in significant and adverse visual effects on the landscape and nearby communities resulting in adverse effects on residential amenity and does not comply with Policy ECON7 parts (A), (D) and (G) of the Ayrshire Joint Structure Plan.

East Ayrshire Local Plan – Renewable Energy Developments

6.6 Policy CS12 states that the Council will positively support and promote the development of sympathetic renewable energy proposals both in stand alone locations and as integral parts of new and existing developments where it can be demonstrated that there will be no significant, unacceptable adverse impact, including adverse cumulative impact with other existing renewable energy developments or other renewable energy developments which are consented or under construction; criteria (ii) and (iv) are relevant.

(ii) on the amenity of nearby communities or sensitive establishments, including individual or small groups of houses in the countryside that may be adversely affected by reason of noise emission, visual dominance and other nuisance;

As previously stated at part 6.5 of this report the proposed wind farm results in unacceptable adverse visual impacts on the grouping of residential properties to the west of Gabroc Hill.

The grouping of residential properties, particularly Easter Blacklaw, Townend of Grange, West Grange Farm and Southgrange will be visually dominated to the north and east by a wind farm landscape particularly at this location in conjunction with the cumulative impact of Whitelee wind farm.

In addition to the above issues the residential grouping of properties located at Marramead, North Drumboay and South Drumboay will be subject to significantly adverse impacts in terms of visual impact and shadow flicker. The close proximity of these properties to the wind farm will result in outlooks that are visually dominated by a predominantly wind farm landscape and adverse impacts through potential for shadow flicker. Consequently the proposal fails to comply with local plan policy CS12 (ii)

(iv) on the visual amenity of the area and the natural landscape setting for the development, particularly within the Sensitive Landscape Character areas as identified on the local plan rural area map.

Whilst the Council acknowledges that wind farms result in impacts on visual amenity, as part of the determination of the planning application the Council consulted Government Guidance on Onshore Wind Turbines and in particular the guidance provided in relation to distance to wind farms from communities.

In this case the layout of the proposal indicates turbines positioned well within 1 km of residential properties adjacent to the M77, at Blacklaw and Glenouther to the south of the site. The Council considers that the close proximity of these turbines combined with the adjacent Whitelee wind farm facilitates a cumulative situation where residential properties are surrounded on the north, south and east and west by large scale wind farms. Both the proposal itself and viewed in combination with Whitelee wind farm results in a significant adverse effect on the visual amenity of these properties. Consequently the proposal fails to comply with local plan policy CS12 (iv)

6.7 Policy CS14 states that the Council will assess all applications for wind farm developments, including extensions to existing, consented and / or operational wind farms, against the provisions of Policy ECON 7 of the approved Ayrshire Joint Structure Plan: Growing a Sustainable Ayrshire and any future supplementary planning guidance to be prepared relating to cumulative impact. Policy ECON7 states:

(A) In the Areas of Search, proposals for large and small wind farm developments will be supported subject to specific proposals satisfactorily addressing all other material considerations.

The Key Diagram in the Ayrshire Joint Structure Plan 2007 is diagrammatic, it is possible to infer from it that the application site lies within the Broad "Area of Search for Large Scale Wind Farms". However, the "Areas of Search for Large Scale Wind Farm Developments" are delineated further on the Rural Area Proposals Map of the East Ayrshire Local plan 2010. On this map five of the proposed wind turbines are located outwith the defined boundary of the area of search.

(B) Areas designated for their national or international heritage value, and green belts, will be afforded significant protection from large scale wind farms.

(C) The integrity of national and international designations should not be compromised.

(D) Cumulative impact will be assessed in all relevant cases, taking into account existing wind farms, those which have permission and those that are the subject of valid but undetermined applications. The weight to be afforded to undetermined applications will reflect their position in the application process. Where the limit of acceptable cumulative impact has been reached, the area will be afforded significant protection.

(E) Outside areas of Search all wind farm proposals will be assessed against the following constraints, any positive or adverse effects on them and how the latter can be overcome or minimised:

- 1) Historic environment;
- 2) Areas designated for their regional and local natural heritage value;
- 3) Tourism and recreational interests;
- 4) Communities;
- 5) Buffer zones;
- 6) Aviation and defence interests;
- 7) Broadcasting installations.

As previously stated at part (A) five of the proposed turbines are located outwith the area of search as identified in the EALP 2010. As such the proposal requires to be assessed against policy CS14 (E).

In this case five turbines are located outwith the defined local plan area of search (turbines HA14A, HA13A, HA12, HA11, and HA9A). At this location the siting of these five turbines in particular results in significant adverse visual effects on the grouping of dwellinghouses in the countryside that forms the small community at Easter Blacklaw, Midtown of Blacklaw, Low Blacklaw, Blacklawhill and Blacklaw Cottage. Indeed at this location four out of the five turbines are located in an elevated position within 900 metres of the dwellinghouse at Easter Blacklaw resulting in significant adverse effects on the residential amenity of this dwellinghouse.

(F) Proposals affecting Sensitive Landscape Character Areas shall satisfactorily address any impacts on the particular interests that the designation is intended to protect but the designation shall not unreasonably restrict the overall ability of the plan area to contribute to national targets;

(G) In all cases, applications for wind farms should be assessed in relation to criteria including, as appropriate, grid capacity, impacts on the landscape and historic environment, ecology (including birds), biodiversity and nature conservation, the water environment, communities, aviation, telecommunications, noise and shadow flicker.

Local Plan policy CS14 reflects Structure plan policy ECON 7, Members are therefore referred to Section 6.5 of this report.

6.8 Policy CS15 states that the Council will, if mindful to grant planning permission for a commercial wind farm development, require applicants to contribute to a dedicated Renewable Energy Fund which will be used to finance sustainable community environmental projects, particularly those designed to help reduce carbon emissions and counteract global warming. For a period of 10 years from the commencement of construction work on the wind farm, all contributions will be directed exclusively to local projects within 10 kilometres of the boundary of the wind farm. 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 installed capacity per annum, index linked to 1 January 2008.'

The applicant has agreed to comply with the terms of policy CS15.

6.9 Policy CS16 states that where a wind turbine is not in operation producing electricity for a continuous period of six months, the operator will be required to provide evidence to the Council that the apparatus is in the process of being repaired or replaced. Otherwise, the Council will deem the turbine to be surplus to requirements and require its removal, with the land restored to its original condition within an appropriate period to be agreed with the Council.

A condition should be attached to any consent to address this issue.

6.10 Where a wind farm development is already operative or has received authorisation from the Council, the Council will presume against any other development in the vicinity of the site which would significantly compromise or inhibit the efficient operation of the development itself.

In this instance the proposed site is immediately adjacent to the consented Middleton wind farm located in East Renfrewshire. The applicant has not provided any information on any effects of the proposal on the operational efficiency of Middleton wind farm.

Landscape and Rural Environment Policies.

6.11 Policy ENV16 states that The Council will not be supportive of development which would create unacceptable visual intrusion or irreparable damage to the landscape character of rural areas. In this regard, the Council will ensure, through the development process, that:

(i) any authorised development is in keeping with, has minimal visual impact and reflects the nature and landscape character of the rural area in which it is located, in terms of layout, materials used, design, size, scale, finish and colour. The design and material finish of any ancillary features will also be required to be sympathetic to the character and appearance of the area;

The proposed development does not result in minimal visual impact on the landscape especially the siting of the wind turbines HA9, HA11, HA12, HA13A and HA14A which will be visually prominent along the western boundary of the Stewarton Road which connects East Ayrshire to East

Renfrewshire. At this particular part of the site the proposed development does not reflect the landscape character in which it is located.

Consequently the proposal does not comply with part (i) of local plan policy ENV16

(ii) any authorised development is sensitively sited, landscaped and screened so as to blend into, respect and complement the landscape characteristics of the particular area in which it is to be located; and

The proposed wind farm by nature of its siting and design, visually represents three separate wind farms of different designs on the landscape and is not therefore sensitively sited, does not blend into, respect or complement the landscape characteristics of this particular area. Particularly to the west of the site where the landscape is characterised by rolling hills with groupings of residential properties.

Consequently the proposal does not comply with part (ii) of local plan policy ENV16.

6.12 Policy ENV17 states that in assessing development proposals relating to land within the rural area which has not been identified as specific development opportunity sites on the local plan maps, the Council shall ensure that these have minimum impact on the rural environment. There will be a general presumption against any development which would:

(iv) have significant unacceptable adverse visual impact or cause irreparable damage to the landscape character and scenic quality of the area within which it is proposed;

The prominent siting of the part of the proposed wind farm (5 turbines) located outwith the area of search for large scale wind farms will result in significant adverse visual impact on both the landscape character in this location and on the residential amenity of surrounding residential properties. In addition the cumulative visual impact of the proposed Harelaw wind farm by itself and in combination with Whitelee, Middleton and Moorhouse wind farms will result in unacceptable cumulative visual impacts on the landscape and on residential amenity.

The proposal does not therefore comply with the terms of policy ENV17 (iv)

(vi) result in the destruction of any areas of peat which are considered to be of significant ecological value.

There are significant areas of peatlands within the East Ayrshire part of the application site, including Glenouther Forest. SNH have made comment on the impact of the development on peatlands and in particular have requested that turbines HA13 and HA14 be removed as they are located on peatland habitat, which should be preserved wherever possible. In

addition, SNH have expressed concern over the partial felling of Glenouther Forest and issues of peat habitat restoration.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

7.1 The principal material considerations relevant to the appraisal of the application are the consultation responses, the representations received, Scottish Planning Policy Renewable Energy, Scottish Government Policy on Control of Woodland Removal, Scottish Government advice on onshore wind turbines and Ayrshire Joint Planning Steering Group Wind Farms: Addendum to Ayrshire Joint Structure Plan Technical Report TR03/2006.

Consultations Responses

7.2 It should be noted that Moscow Community Council and Fenwick Community Council have objected to the proposed wind farm in terms of significant adverse visual effects, cumulative visual effects and adverse impacts on the character of the landscape.

7.3 Scottish Natural Heritage (SNH) has indicated that the proposal raises significant concerns in terms of local/regional landscape and visual impacts. (SNH) also states that the scheme lacks overall coherence, when viewed with other neighbouring schemes and proposals will result in a confusing landscape and will result in significant cumulative visual impacts.

7.4 Notwithstanding, there are no significant adverse comments received from any remaining consultees that cannot be addressed either through the imposition of appropriate conditions in any consent granted for the proposed development or by means of legal obligations secured through a Section 75 Agreement in terms of the Town and Country Planning (Scotland) Act 1997.

Representations

7.5 Of the representations received directly by this Council, there are concerns particularly in relation to adverse impacts on landscape character and the ability of the landscape to absorb the proposal and significant adverse effects on residential amenity and visual amenity, particularly in relation to adverse noise impacts.

7.6 Additional points of representation refer to the adverse cumulative visual impacts resulting from the proposed wind farm taken in conjunction with Whitelee wind farm which will result in significant adverse impacts on residential amenity, particularly to the properties located adjacent to the M77 at North Drumboy, South Drumboy, Marramead; and properties grouped to the west of the application site near Blacklaw.

7.7 These representations raise significant adverse issues which are material in the determination of this application by the Scottish Ministers and in relation to this Council coming to a view on the proposed development.

Notably, The Government Guidance on Onshore Wind turbines states that *“The ability of the landscape to absorb development often depends on features of landscape character*

such as landform, ridges, hills, valleys and vegetation.Different layout of turbines may be more or less suited to particular landscape types

7.8 It is acknowledged that a wind farm of this size and scale will result in significant visual impacts on both the landscape character and visual amenity of an area. Taking account of the proposal for an additional 39 turbines at Harelaw and the cumulative effect of the existing Whitelee wind farm, the residential amenity of local communities, in particular the grouping of properties located near Blacklaw and adjacent to the M77, would be significantly unacceptably adversely affected by the proposed wind farm.

Scottish Planning Policy (SPP) - Renewable Energy

7.9 SPP was published on February 2010 and set out Scottish Planning Policy on renewable energy developments. The Government's approach places planning in the wider context of Scottish Government aims and policies and clarifies the Government's expectations of the system and planning services. The Scottish Ministers have set a target of generating 100% Scotland's electricity from renewable sources by 2020.

7.10 Para 187 of SPP states that planning authorities should support the development of wind farms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. Development plans should provide a clear indication of the potential for development of wind farms of all scales, and should set out the criteria that will be considered in deciding applications for wind farm developments.

7.11 The SPP states that factors relevant to the consideration of applications will depend on the scale of the development and its relationship with the surrounding area, but are likely to include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities and any cumulative impacts that arise. The design and location of any wind farm development should reflect the scale and character of the landscape. The location of turbines should be considered carefully to ensure that the landscape and visual impact is minimised.

7.12 Importantly, the SPP considers that in terms of cumulative impacts, planning authorities should take account of existing wind farms, those which have permission and valid applications for wind farms which have not been determined. The SPP states that planning authorities should set out in the development plan a framework for onshore wind farms of over 20 megawatts generating capacity. In this regard SPP indicates the spatial framework should identify areas requiring significant protection where the cumulative impact of existing and consented wind farms limits further development.

7.13 The relevance of these extracts from SPP is considered in the context of the Ayrshire Joint Structure Plan 2007 and the East Ayrshire Local Plan 2010 as noted above. Consequently the planning authority considers that the proposal fails to comply with national planning policy in terms of the significant unacceptable visual impacts by the proposal itself and the cumulative adverse visual and landscape impacts on nearby communities and on the surrounding area. In accordance with SPP, areas where the cumulative impact of existing and consented wind farms limits further development require significant protection.

Scottish Government Guidance (SGG) – On shore wind turbines.

7.14 This Government guidance provides a broad direction on the planning process for wind farms, technical information in terms of turbines and typical planning considerations in determining wind farm applications such as shadow flicker, noise, impacts on landscape and cumulative impacts amongst others.

7.15 The relevance of these extracts from Scottish Government Guidance (SGG) is considered in the context of the Ayrshire Joint Structure Plan 2007 and the East Ayrshire Local Plan 2010 as noted above. The planning authority considers that the proposal fails to comply with the criteria of SGG in terms of the significant unacceptable adverse cumulative visual and landscape impacts on nearby residential properties and on the surrounding area. In this case and in compliance with SGG it is appropriate to afford the area significant protection from the adverse impacts of the proposed Harelaw Renewable Energy Park.

Ayrshire Joint Planning Steering Group Wind Farms: Addendum to Ayrshire Joint Structure Plan Technical Report TR03/2006

7.16 All three Ayrshire Councils have agreed that this Addendum will be used in the assessment of wind farm applications. The purpose of the Addendum is to support the implementation of wind energy policy as set out in the Ayrshire Joint Structure Plan. The addendum provides developers with greater clarity regarding those areas where the principle of wind farm development is likely to be acceptable or unacceptable and to provide further explanation of the criteria against which new development will be assessed.

7.17 In terms of the Addendum the proposed site is not located in an area afforded significant protection from the effects of large scale wind farms. The Addendum requires that an assessment be undertaken against relevant development plan policies to protect the interests of designated sites. This assessment has been undertaken at Section 6 of this report.

7.18 Part 14 of the Addendum refers to cumulative impacts and clarifies that these will frequently involve landscape and visual impacts but may also affect natural heritage designations. In this case there are no natural heritage designations within the application site but issues of landscape and visual impact are fundamental to the proposal. In terms of cumulative impacts the effect of the proposal on the landscape and nearby residential properties at Blacklaw and adjacent to the M77 has to be considered against the nearby Whitelee wind farm, to date the largest onshore wind farm in Europe. Given this situation the proposal results in significant unacceptable adverse effects on the character of the landscape and on the visual amenity of the area. The landscape, particularly outwith the area of search cannot satisfactorily absorb further wind farm development and should therefore be afforded significant protection.

7.19 Part 18 of the Addendum indicates that establishing and maintaining visual separation from other wind farms will allow for a clear distinction to be perceived between the wind farmed landscape and the landscape beyond. It is therefore appropriate to provide significant protection to the areas in the immediate vicinity of these newly created wind farm landscapes on visual grounds.

7.20 The Communities section at part 28 of the Addendum relates to issues of amenity and quality of life being key assets contributing significantly to the attractiveness and economic potential of an area. Wind farms have the potential to create significant long term adverse impacts on the amenity of an area or health, well being and quality of life of people living or working nearby. Visually within 2km wind turbines are a prominent feature in an open landscape. Impacts of noise and shadow flicker can be significantly reduced by distance and the introduction of appropriate safeguarding zones. The addendum recognises that noise and light pollution can have serious impacts on health and well being.

7.21 In terms of shadow flicker the Addendum recommends as a general rule a minimum separation distance of 10 times the turbine's rotor blade diameter from a dwellinghouse, work place or community facility. If development is to be sited closer than this the developer will require to demonstrate that the impacts are acceptable.

7.22 In this case the developer proposes to locate 5 wind turbines (HA18, HA21, HA 22, HA26 and HA35) within 800 metres of three dwellinghouses at Marramead, North Drumbooy and South Drumbooy. These turbines form the eastern edge of the windfarm proposal and have a further 19 wind turbines situated immediately to the west.

7.23 In addition, the residential property located at Easter Blacklaw has 4 wind turbines located close to the north of the property at approximately:

- turbine HA13A within 790 metres
- turbine HA12 within 820 metres
- turbines HA14A within 825 metres
- turbine HA11 within 950 metres

7.24 Given the close proximity of the wind turbines to residential properties the developer has failed to demonstrate that the impacts are acceptable, especially in terms of visual impact and cumulative impact with Whitelee windfarm. The developer has provided mitigation measures to alleviate shadow flicker. However this is no guarantee that the aforementioned residential properties would not suffer the effects of shadow flicker and the resulting significant adverse impacts on the residential amenity of these properties.

Scottish Government Policy on Control of Woodland Removal

7.25 This Government policy provides direction for decisions on woodland removal in Scotland. The principal aims of this policy statement, amongst others, include the support of climate change mitigation and adaptation in Scotland and to provide a framework for appropriate woodland removal and compensation.

7.26 Part 10.2 of the applicant's submitted FIR relates to woodland compensation proposals and the applicant states that this has been agreed with East Ayrshire Council and with the Forestry Commission. Whilst EAC entered discussions with the developer in relation to compensation for woodland removal, for the avoidance of doubt, no agreement has been reached in relation to this issue.

7.27 The developer indicates that 123 hectares of woodland will be felled with 102 hectares restored to bog habitat and that the total area of compensation planting amounts to 18.63 hectares. Any agreement in terms of compensatory tree planting would require to be subject to a section 75 legal agreement between the developer and East Ayrshire Council in compliance with government policy.

8. FINANCIAL AND LEGAL IMPLICATIONS

8.1 There are potential financial implications for the Council in coming to a view on this application as, should the Committee be minded to formally object to the proposed Harelaw Renewable Energy Park, this is likely to trigger a Public Local Inquiry in terms of Section 62 and Schedule 8 of the Electricity Act 1989. Furthermore, if the Council is considered to have acted unreasonably in its objection to the proposed development, a claim for an award of expenses could be made by the applicant. Legal implications will arise though the requirement for a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 should the Scottish Ministers be minded to grant consent for the proposed development.

8.2 Heads of Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, to be concluded prior to the issue of any consent under Section 36 of the Electricity Act 1989, should comprise the following:

- Appropriate developer contributions for the purpose of enabling mitigation measures and community improvements within East Ayrshire consistent with Council policy.
- No section of the development hereby authorised shall be commenced until a restoration bond is provided by the developer and agreed by the Scottish Government and the Planning Authority that will secure restoration of the site following decommissioning of the turbines.
- The developer shall provide a Planning Monitoring Officer for the development, the costs and procedures of implementing this position shall be incurred by the developer.
- A supplementary agreement required by NATS to create real burdens in relation to the application site are entered into with the Planning Authority, the developer and with NATS to the effect that no turbine shall be constructed until a suitable mitigation has been identified and is implemented
- The developer will meet all costs of developing and implementing a suitable mitigation and all reasonable costs incurred by NATS in relation to aviation mitigation for Harelaw Renewable Energy Park.
- The developer shall provide an Ecological Clerk of Works for the development, the costs and procedures of implementing this position shall be incurred by the developer; and

- Appropriate developer contributions in terms of compensation for loss of woodland in compliance with Scottish Government Policy

9. CONCLUSIONS

9.1 As indicated in section 6 of the report, the Section 36 application and the related application for deemed planning permission are not considered to be in accordance with the development plan. As is indicated at Section 7 of the report, there are material considerations relevant to this application; it is considered that these are not supportive of the application in terms of national policy and planning advice.

9.2 The proposed Harelaw wind farm development does not comply with policy ECON6 and ECON7 parts (A), (D) & (G) of the Ayrshire Joint Structure Plan 2007. Furthermore the proposal does not comply with policy CS12 (ii),(iv); CS14(E); ENV16(i), (ii) and ENV17(iv) of the East Ayrshire Local Plan 2010.

Assessing the proposals against the development plan it is considered that the proposal:

- presents unacceptable visual and landscape impacts in terms of the setting of the proposed wind farm within the immediate wider landscape and the significant adverse impacts on residential amenity
- presents unacceptable adverse cumulative impacts when considered by itself and in conjunction with the existing, authorised and proposed wind farms within the vicinity of the site

9.3 The proposed development, together with other existing wind farm developments (existing, consented and proposed) will provide a generating capacity that would meet a significant portion of the Scottish Government's renewable energy 2020 target placing a disproportionate burden on the local communities in East Ayrshire in satisfying national energy requirements. This is of particular relevance when considering the contribution already made by East Ayrshire in terms of existing renewable energy production as currently, Whitelee windfarm is the largest onshore wind farm in Europe with the majority of the turbines located in East Ayrshire and also in terms of the contribution through the production of other operational wind farms and the production of opencast coal, with consented reserves being greater than that of any other part of the UK.

9.4 It is recognised that the proposed development would result in potential socio-economic benefits through the following:

- the preparation of a Habitat Management Plan that, in terms of proposed mitigation of adverse impacts on the natural environment, would deliver positive benefits to managed areas through increased biodiversity;
- the potential developer contributions to the Council's Renewable Energy Fund
- the potential developer contributions for compensation for loss of woodland
- the significant benefits accruing from the significant investment that potentially would generate economic benefits and temporary employment opportunities in the East Ayrshire economy

9.5 Taking all matters into account the potential benefits to be accrued from the proposed development do not in this instance outweigh the significant adverse unacceptable impacts of the proposal on the landscape character, residential amenity and visual amenity that would result from the Harelaw wind farm in the form in which it is proposed.

9.6 Taking all relevant matters into consideration, it is considered on balance that the Council should offer an objection to Scottish Ministers to the Harelaw Renewable Energy Park development.

10. RECOMMENDATIONS

10.1 It is recommended that the Council formally objects to the proposal as the proposed development is contrary to the terms of the Development Plan, Scottish Planning Policy and Government Guidance on wind farm development for the reasons detailed on the sheet attached to this report and;

10.2 It is recommended that a copy of this report be forwarded to the Scottish Ministers as presenting this Council's formal response to the consultation on the Section 36 application for the Harelaw Renewable Energy Park development in terms of the Electricity Act 1989.

**Alan Neish
Head of Planning and Economic Development**

29 September 2011
JL/
FV/HM

LIST OF BACKGROUND PAPERS

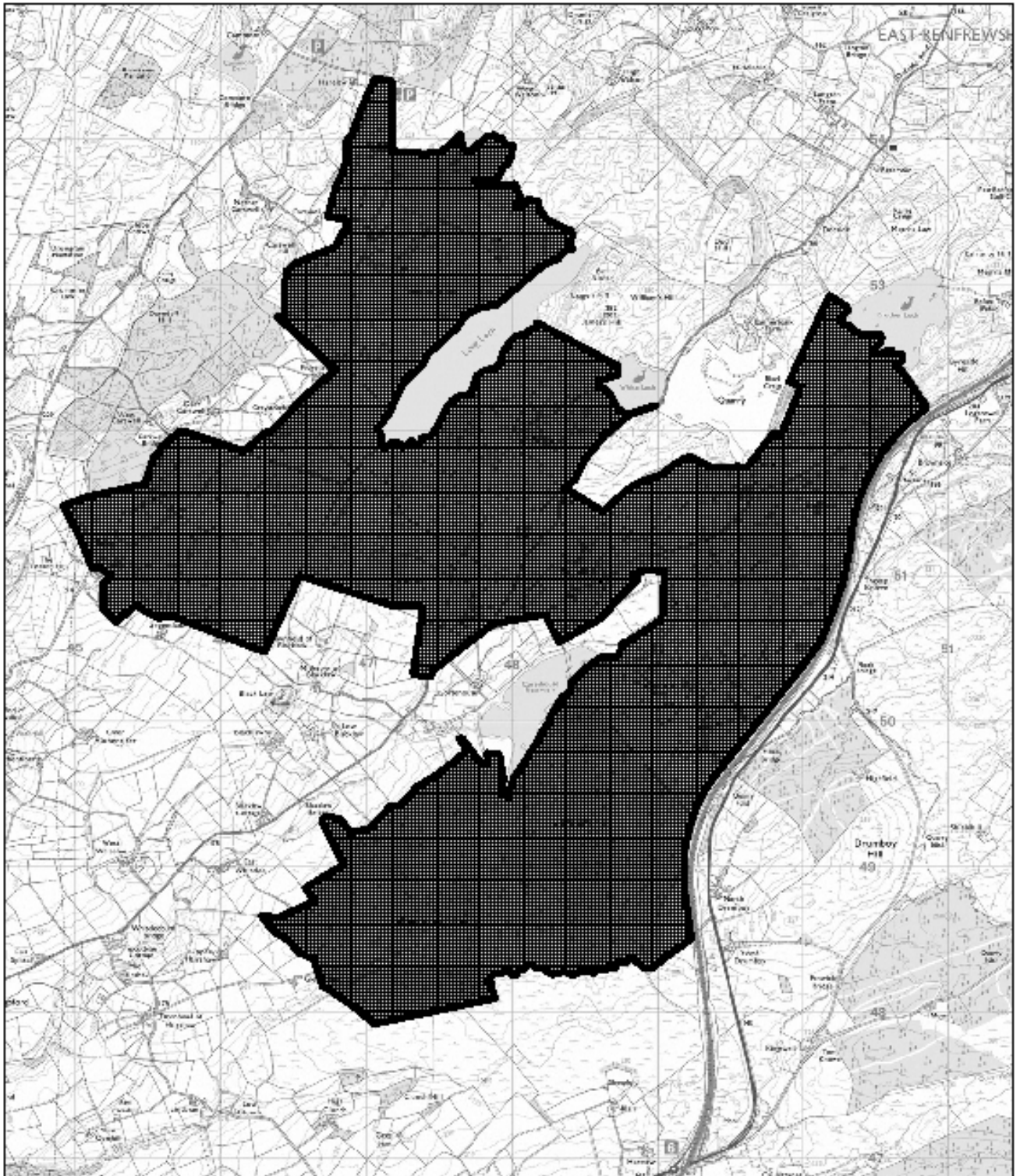
1. Formal Consultation Letters
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letters of Representation
5. Adopted East Ayrshire Local Plan (2010).
6. Approved Ayrshire Joint Structure Plan (2007).
7. The Harelaw Renewable Energy Park Environmental Statement 2009
8. The Harelaw Renewable Energy Park Environmental Statement Addendum 2010
9. The Harelaw Renewable Energy Park Further Information Report July 2011
10. Scottish Planning Policy
11. Scottish Government Guidance – Onshore wind turbines
12. The Harelaw Renewable Energy Park – supplementary planning statement
13. Scottish Government Woodland Removal Policy


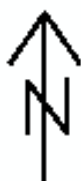
Anyone wishing to inspect the above background papers should contact Jane Little on 01563 576768.

APPENDIX 1

Reasons for recommendation to object to the Scottish Ministers:

1. The proposal fails to comply with AJSP policy ECON6 and EALP policy ENV16(ii) as the proposed development cannot demonstrate that there will be no significant adverse impact, including adverse cumulative impacts and the design of the development is not sensitive to and does not reflect the landscape character of the rural area in which it is located.
2. The proposal fails to comply with AJSP policy ECON7(A) and EALP policy CS14(A) as the proposed development does not satisfactorily address all other material considerations in terms of significant unacceptable adverse visual and landscape impacts on nearby communities and on the surrounding areas.
3. The proposal fails to comply with AJSP policy ECON7(D) and EALP policy CS14(D) as the proposed development results in significant adverse cumulative visual and landscape impacts. The acceptable limit of cumulative impact has been reached and the area should be afforded significant protection.
4. The proposal fails to comply with AJSP policy ECON7(G) and EALP policy CS14(G), CS14(E), ENV16(i) and ENV17(iv) as the proposed development will result in significant adverse visual impacts on the landscape character and on the residential amenity of groupings of dwellinghouses forming communities.
5. The proposal fails to comply with EALP policy CS12(ii) and CS12(iv) as the proposed development results in significant adverse impacts on the residential amenity of small groups of houses in the countryside and results in adverse effects on the visual amenity of the area.



<p>Title/Location Windfarm HARELAW Application No. 09/0001/S36</p>	<p>East Ayrshire Council Department of Neighbourhood Services Planning & Economic Development Service The Johnnie Walker Bond 15 Strand Street Kilmarnock KA1 1HU Tel: (01563) 576790 Fax: (01563) 554592 E-Mail : Planning@east-ayrshire.gov.uk Com Date: 7/10/2011</p>
<p>Key</p> <p> Application Site</p>	

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