

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 30 SEPTEMBER 2011

PROPOSED WINDFARM (55MW) CONSISTING OF 22 TURBINES, CONTROL BUILDING, ACCESS TRACKS, ANEMOMETER AND ASSOCIATED INFRASTRUCTURE AT GALAWHISTLE WIND FARM, NEAR GLENBUCK, MUIRKIRK (CROSS BOUNDARY DEVELOPMENT WITH SOUTH LANARKSHIRE COUNCIL)

APPLICATION BY INFINIS PLC

Report by Head of Planning and Economic Development

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The project promotes the construction of 22 horizontal axis wind turbines, each with a 2.5MW maximum rated generating capacity. The proposed development straddles the boundary between East Ayrshire and South Lanarkshire resulting in 20 of the turbines being located within South Lanarkshire and 2 turbines located within East Ayrshire. The applicant indicates that the candidate turbines proposed would be the subject of a competitive tendering process. However it is proposed that 18 of the turbines would measure 69 metres to hub height while 4 of the turbines would be 80 metres to hub height, giving maximum height to blade tip of 110.2 metres and 121.2 metres respectively. The turbines within East Ayrshire are of the lesser height. The rotors, some 82.4 metres in diameter, would consist of three fibreglass blades, with lightning protection, attached via the hub and main shaft to the nacelle containing the generator, gearbox and other operating equipment. The turbine towers will be of tapering tubular steel construction.

1.2 The turbines would be of a “variable speed” type and would start to generate power when wind speeds at hub height exceed 4 metres per second. Maximum power is reached at wind speeds of typically 10 metres per second and the turbines would automatically shut down for structural integrity reasons when wind speeds exceed 25 metres per second. The turbines are computer controlled to ensure that at all times the turbine faces directly into the wind to ensure optimum efficiency.

1.3 The turbines would be finished in a low reflectivity semi-matt pale grey colour. Each turbine will be set on a square reinforced concrete foundation measuring 16m x 16m with a foundation depth of 1.5 metres, this being entirely beneath the ground. In addition to the foundations, each turbine will require hardstanding and laydown areas to facilitate the operation of cranes and delivery

vehicles involved in the construction of the turbines. Each turbine would be fitted with a transformer fitted inside the base of each turbine tower.

1.4 The proposed Galawhistle Wind Farm development will require to be supported by necessary infrastructure comprising the following permanent and temporary elements:

(i) Site Access – The site will be accessed directly from the A70 Muirkirk - Douglas Road using the existing Scottish Coal access road from the Spireslack mining complex's Coal Distribution Point via an existing overland haul route to a point 900m west of the Galawhistle site. A new section of road will provide access from this point to the boundary of the wind farm.

(ii) Internal Access tracks – approximately 18km of new internal access tracks will also be required to be formed to serve each individual wind turbine within the site

(iii) Temporary Concrete Batching Plant – a potential batching plant is proposed located at the construction compound. Water abstraction from a local source would also be required for this batching facility. The batching plant would generally consist of a mobile concrete batching unit, cement silos, water treatment facility all contained within a bunded compound. The option to use ready mixed concrete sourced locally may also be exercised in the Galawhistle development.

(iv) Temporary Construction Compound and Laydown Area – one compound is proposed with and will accommodate temporary site offices and welfare facilities, storage containers for plant and materials. Both these areas lie within the Spireslack opencast mining complex, minimising the potential area disturbed by the development. Within 6 months of the wind farm becoming operational, all structures would be removed and the hardstandings covered over.

(v) Substation and Grid Connection - the wind farm substation would connect to the proposed adjacent Scottish Power substation by 33kV underground cables. The Scottish Power substation would connect to the transmission network via a 132kV cable which would run underground from the substation through the site to the forestry on the north eastern boundary. At this point, the connection would become an overhead line through the forest until it meets the Scottish Power Coalburn substation located approximately 3km north east of Coalburn. Scottish Power will require to make a separate application under Section 37 of the Electricity Act 1989 to the Scottish Ministers for the grid connection.

(vi) Control Building – A single storey apex roof building is proposed, located within the South Lanarkshire boundary. The building would accommodate electrical switchgear, control system equipment, a toilet facility and office space. This will provide a base for the control, operation and maintenance activities throughout the life of the wind farm.

(vii) Wind Monitoring Mast: One permanent anemometry mast is proposed consisting of a free standing mast some 70 metres high and will be used to monitor wind speed and environmental conditions. This mast is located within East Ayrshire.

(viii) Borrow Pits - four borrow pits for sourcing stone are proposed within the Galawhistle development, two within East Ayrshire and Two within South

Lanarkshire. Some 220,000 cubic metres of rock will be required for the formation of access tracks and hardstandings. Rock will be extracted using recognised quarrying techniques including blasting.

1.5 Delivery for turbine components is likely to be via the M74, exiting at junction 11 onto the A70. Components will then travel westbound past the settlements of Douglas and Glespin. The wind turbine components would be transported by specially designed trucks via the A70 Road and the overland haul road at Spireslack to the temporary component storage areas. Construction would take place over a 14 month period and site working hours are to be agreed with the Planning Authority.

1.6 A proportion of construction personnel traffic is expected to access the site via each of the routes identified below:

- Route 1 – from the M74
- Route 2 – from the north via the B743 from Strathaven and the A70
- Route 3 – from the west via the B743 from Nethershead and the A70
- Route 4 – from the southwest via the A70 from Cumnock

It is envisaged that all abnormal loads and all construction deliveries are likely to access the site from the M74 at junction 11. During the 14 month construction phase, the following traffic will access the site:

- Low loaders and HGVs to deliver plant and machinery to site
- 20-tonne trucks, to deliver sand for cable trenches
- Flat-bed trucks, to deliver cables, substation components and the substation transformer (requiring police escort)
- Crane, delivered as mobile units and on low-loaders
- Deliveries of fuel tanker
- Construction personnel by light vehicles
- Either 8m³ mixer trucks of ready mixed concrete in the event concrete batching is not undertaken or 30 tonne bulk powder tankers for cement and 20 tonne trucks of aggregate and sand if batching undertaken.

1.7 The lifespan of the Galawhistle Wind Farm is anticipated to be 25 years and at the end of this timescale there are two options available; either to seek consent for a further period or to remove the wind turbines and re-instate the site. Decommissioning would involve dismantling and removal of the turbines, the control building, substation and anemometry mast. Track and foundations would either be retained on site or removed where appropriate.

1.8 The Section 36 application is accompanied by a comprehensive Environmental Statement 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.

1.9 The applicant states that the Galawhistle development would deliver a potential maximum energy yield of 469.9 gigawatt hours per year. Based on average output of approximately 30% of the maximum output, this would give an energy output of 140.9 GWh per year; this would serve the equivalent of around 31,311

households. This equates approximately to 17% of households within East Ayrshire and South Lanarkshire. In terms of carbon savings, the Galawhistle Wind Farm would save some 62,152 tonnes of carbon dioxide equivalent emissions being released into the atmosphere per annum or 1.55 million tonnes over the anticipated 25 year life of the site.

1.10 In terms of socio-economic benefit, the applicant indicates that the capital cost of the Galawhistle Wind Farm is estimated to be in the region of £75 - £100 million and therefore will have the potential to influence the local economies of both East Ayrshire and South Lanarkshire. The use of local contractors for construction, operation and maintenance is to be actively encouraged by the applicant. During the construction phase, there will be between 17 - 34 workers employed and a full time operations manager will oversee day to day wind farm operations.

2. RECOMMENDATION

2.1 It is recommended that the Council does not formally object to the proposed development and 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 Galawhistle Wind Farm development in terms of the Electricity Act 1989.

2.2 In the event that the Scottish Ministers are minded to grant consent for the Galawhistle Wind Farm development, the Council respectfully requests that the conditions listed in Appendix 1 of this report (or as may be further amended in discussion or negotiation) are incorporated in any consent granted or secured by means of a Section 75 Agreement in terms of the Town and Country Planning Act 1997 (as amended).

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 and therefore should only succeed if material considerations indicate otherwise. As is indicated at Section 7 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application in terms of national policy, planning advice and the majority of consultees. It is also material that there is not any significant level of objection to the proposed development and has in fact generated more expressions of local support.

3.2 The proposed Galawhistle Wind Farm development, insofar as it relates to East Ayrshire, is considered to be contrary to Policies ECON 7(A), and ECON7(E) of the approved Ayrshire Joint Structure Plan 2007 and consequently Policy CS14 of the adopted East Ayrshire Local Plan 2010 in that the proposed development does not fall within an identified Area of Search for a wind farm development of this scale. However, the greater part of the Galawhistle development falls within South Lanarkshire which, through its development plan and Supplementary Planning Guidance on Renewable Energy, has identified the Galawhistle site as an Area of

Search for wind farm development and therefore the development is consistent with its development plan.

3.3 Whilst the proposal will be visible from a number of key vantage points within East Ayrshire, it is considered that the proposal is not unduly prominent to draw the conclusion that the proposal is unacceptable in landscape terms. This is in part on the basis that the proposal is relatively remote from existing dwellings and settlements and also on the basis that the existing site at Hagshaw Hill has already introduced turbines into the locality, with this proposal effectively adding to this established development rather than creating a new wind farm landscape.

3.4 It is therefore considered that the greater weight would then fall with the provisions of SPP. In such circumstances, it is considered that, notwithstanding the landscape and visual impacts associated with the Galawhistle proposal, these are not considered to be of such weight to set aside the clear and stated provisions of SPP for the reasons stated elsewhere within this report, particularly as the Galawhistle proposal has, remarkably, not attracted any significant level of third party objections (and none from within East Ayrshire) and that issues raised by other statutory consultees can be addressed.

3.5 The remaining significant issue is that of aviation impacts as indicated in the consultation response from NATS. No mitigation has been identified within the Environmental Statement but NATS and the developer are in discussions with a view to identifying a suitable mitigation to the adverse aviation impacts. At this time, no suitable technical solution on which a suitable mitigation may be based has been identified although both parties are committed to working together to deliver the requisite mitigation. It is considered that a suspensive condition could be attached to any consent granted for the Galawhistle development to prevent any works commencing on site until the appropriate mitigation has been agreed between parties and subsequently implemented as agreed.

3.6 It is recognised that the proposed development would result in potential benefits to the natural environment and 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 both on site and off site.
- the setting up of a Habitat Management Group involving relevant stakeholders to inform on management of these areas;
- the securing of developer contributions to promote socio-economic benefit to local communities;
- the significant benefits accruing from the construction programme that potentially would generate substantial local output in the East Ayrshire and South Lanarkshire economies together with the proposed and potential socio-economic benefits described in this report.

3.7 The proposed Galawhistle development will provide socio-economic benefits to the local area particularly for Muirkirk and could assist positively the

regeneration of this community which has suffered from economic decline since the closure of the deep mining industry.

3.8 Taking all relevant matters into consideration, it is considered on balance that the Council should offer a non-objection to the Galawhistle development subject to appropriate conditions and legal obligations under a Section 75 Agreement as described elsewhere in this report. Should Scottish Ministers be of a mind to approve the application, consent should be withheld until legal agreements have been concluded in order to ensure that development and operation of the site takes place in an acceptable manner, and any impacts are properly mitigated.

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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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 a proposed wind farm development at Galawhistle, near Glenbuck, Muirkirk and for the Local Planning Committee to take a formal view on the proposed development. The proposed wind farm is a cross boundary development within both East Ayrshire but with the greater part of the development situated within South Lanarkshire.

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 Galawhistle Wind Farm project has a maximum installed capacity of 55 MW, East Ayrshire Council has been formally consulted by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989. A separate consultation has also been sent to South Lanarkshire Council.

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 (Renewable Energy Division) 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 was lodged with the Scottish Ministers in March 2010 with a comprehensive Environmental Statement as required under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000.

2.4 Should the Scottish Ministers be disposed to grant a Section 36 consent for the Galawhistle 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 7km east of Muirkirk in East Ayrshire, 4km west of Douglas and 2.5km northwest of Glespin in South Lanarkshire. The area surrounding the site is characterised by Spireslack Open Cast Coal area immediately to the west, the operational Hagshaw Hill Wind Farm and its extension to the east, and forestry to the north. The A70 passes to the south of the site approximately 900m south of the nearest turbine. The total area of the site is approximately 594 hectares and its highest point is 463m Above Ordnance Datum (AOD). The site is located on rolling moorland landscape character type.

3.2 **Proposed Development:** The project promotes the construction of 22 horizontal axis wind turbines, each with a 2.5MW maximum rated generating capacity. The proposed development straddles the boundary between East Ayrshire and South Lanarkshire resulting in 20 of the turbines being located within South Lanarkshire and 2 turbines located within East Ayrshire. The applicant indicates that the candidate turbines proposed would be the subject of a competitive tendering process. However it is proposed that 18 of the turbines would measure 69 metres to hub height while 4 of the turbines would be 80 metres to hub height, giving maximum height to blade tip of 110.2 metres and 121.2 metres respectively. The turbines within East Ayrshire are of the lesser height. The rotors, some 82.4 metres in diameter, would consist of three fibreglass blades, with lightning protection, attached via the hub and main shaft to the nacelle containing the generator, gearbox and other operating equipment. The turbine towers will be of tapering tubular steel construction.

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3.9 The Section 36 application is accompanied by a comprehensive Environmental Statement 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.

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output of approximately 30% of the maximum output, this would give an energy output of 140.9 GWh per year; this would serve the equivalent of around 31,311 households. This equates approximately to 17% of households within East Ayrshire and South Lanarkshire. In terms of carbon savings, the Galawhistle Wind Farm would save some 62,152 tonnes of carbon dioxide equivalent emissions being released into the atmosphere per annum or 1.55 million tonnes over the anticipated 25 year life of the site.

3.11 In terms of socio-economic benefit, the applicant indicates that the capital cost of the Galawhistle Wind Farm is estimated to be in the region of £75 - £100 million and therefore will have the potential to influence the local economies of both East Ayrshire and South Lanarkshire. The use of local contractors for construction, operation and maintenance is to be actively encouraged by the applicant. During the construction phase, there will be between 17 - 34 workers employed and a full time operations manager will oversee day to day wind farm operations.

4. CONSULTATIONS AND ISSUES RAISED

4.1 Consultations have been carried out by this Service and by the Scottish Government, Enterprise and Life Long Learning Department (Consents and Emergency Planning Unit). The consultation responses received are in some instances summarised for the purposes of this report. The full responses received are available for inspection as background papers.

4.2 East Ayrshire Environmental Health Service has no objections to the proposed development as the nearest sensitive receptor to the proposed development lies in excess of 800 metres from the nearest turbine. Conditions should be attached to the permission if it is to be granted controlling the development with respect to noise, dust and contamination.

4.3 East Ayrshire Council Roads and Transportation Service has provided comments and proposed conditions it would wish applied to any consent for the development. These primarily concern the A70 between the South Lanarkshire boundary and the existing Scottish Coal open cast mine access at Spireslack on the understanding that all abnormal vehicle traffic is to use this route exclusively. However, should it be anticipated that any abnormal load might use any other part of the East Ayrshire Council road network, then these observations and conditions, as well as any others applied by the Roads and Transportation Service, must be applied to the affected routes. Weight limits on existing structures apply to all vehicles involved in construction for the development, on all routes to the site.

(i) Existing road geometry and construction: The section of the A70 between Spireslack and the East Ayrshire/ South Lanarkshire boundary has a number of tight bends with poor forward visibility, narrow verges, ditches and steep embankments. Sections of the road may therefore require widening and/or strengthening to allow safe passage of abnormal loads. The existing vertical alignment is such that long abnormal loads may ground at some locations. Sections of the A70 are constructed on weak ground (e.g. peat) which may be susceptible to deformation under abnormal loading, but these areas are difficult to identify in advance.

(ii) Existing Structures: On the section of A70 from East Ayrshire/ South Lanarkshire boundary to the Spireslack OCCS entrance there are four structures which carry the A70 carriageway. Two of these require a formal load assessment which have been completed, and which show the structures as being satisfactory for 40 Tonne traffic and having good abnormal load capacity. There are two other structures which do not require a formal load assessment. Based on current inspection information all of these structures are in reasonable condition and should be capable of carrying abnormal load traffic accessing this wind farm site. However, only when we have actual proposed abnormal load vehicle configurations, can we confirm the suitability of the structures. There are also other smaller culverts and/or piped drains over which the A70 will cross but for which we have no formal records. It is not considered that these would pose any issues for the abnormal load traffic.

(iii) Public Utilities: There are a number of poles and overhead cables which may require to be raised / moved. There are cables within the verges and there may be chambers within the carriageway and verge which need strengthened. The applicant should consult the relevant public utilities.

Conditions to be applied to this development

1. Assessment, Strengthening Works and Maintenance

- (a) A full structural assessment of the A70 will required to be undertaken by the applicant and agreed with East Ayrshire Council prior to commencing any work on site.
- (b) All identified necessary road works required (eg. kerbing, drainage improvements, patching, widening, strengthening and vertical realignments) will require to be carried out and completed prior to commencement of any works on-site by the applicant under section 56 of the Roads (Scotland) Act 1984. Alterations to any part of the public road would require detailed drawings to be submitted by the applicant for approval under section 56 of the Roads (Scotland) Act 1984. All work must be carried out to the Specification for Highway Works by an approved contractor at the applicant's expense prior to the delivery of any abnormal loads to the site.
- (c) As it is difficult to accurately assess how an existing road will perform under concentrated HGV loading conditions particularly where poor ground conditions exist, even when strengthened and, to allow for localised deterioration, a regime of ongoing maintenance to ensure safe passage on the road by the public during the construction period must be agreed between the applicant and the Roads Authority prior to commencement of any work on site.
- (d) There will also be an obligation on the developer to ensure that the A70 is to be reinstated to its former condition if requested by EAC. This may be applied on completion of abnormal load deliveries or once the site is operational.
- (e) Any resultant damage to any of the road structures due to the applicant's construction traffic/abnormal loads will require to be repaired at the applicant's expense.

2. Other Comments

- (a) Location, visibilities and standard of construction of any additional accesses from the public road system to the site will require to be agreed with the Roads and Transportation Service and constructed prior to commencement of any work on the site in the interests of road safety.
- (b) All routing of construction traffic has to be agreed in advance with the Roads Service prior to construction work commencing on-site.
- (c) Written permission must be sought for any re-location of existing street furniture (barriers, road signs, bollards etc) required as a result of the proposal. Any work carried out would be at the applicant's expense.
- (d) A Transportation Protocol for construction traffic must be signed between the applicant and the Council, which would include agreements on routing, timing of deliveries, marking of vehicles, driver behaviour, wheel washes at site accesses etc. with the applicant being required to record any breaches of the Protocol and notifying the Council of all breaches. Further discussions will require to take place at an early stage between the applicant and the Councils Roads Authority, to finalise and agree the details of the road and structural works required on the routes to the site should the development go ahead.

The Planning Authority can indicate to the Scottish Ministers that it is considered that the above matters should be addressed by conditions attached to any consent granted for the proposed development or by means of obligations secured by a Section 75 Agreement under the Town and Country Planning (Scotland Act, 1997 (as amended) to meet the requirements of the Roads and Transportation Service.

4.4 The Association of Salmon Fishery Boards indicates that it and its members have a considerable interest in the development of renewable sources of energy given that many of these developments are likely to take place in rural areas with potential for impact on migratory fish and the fisheries they support. The Association comments as follows:

- (i) that any proposed developments are conducted in full consultation with the River Ayr District Salmon Fishery Board, Ayrshire Rivers Trust and Clyde River Foundation. The DSFB holds various statutory powers and duties with regard to these developments and would ask that the developers liaise closely with them on this project. The role of the Ayrshire Rivers Trust is also central to providing scientific advice to the DSFB and to consultants acting in this project, as to the possible effects its construction and operation may have on a range of fish species and their habitats.

The River Ayr DSFB has been consulted on the proposed development but has not responded to the consultation letter. The Ayrshire Rivers Trust has been consulted as indicated in section 4.19 below.

- (ii) the Association would record its own concerns that such developments will have considerable construction implications and these very often can be conducted without proper regard or understanding of the potential impacts on water courses, water quality and migratory and other fish species. Experience would suggest that construction contractors are often unaware of the potential for impact such as these

but, when proper consultation with the local fishery board is encouraged at an early stage, many of these problems can be averted or overcome.

The applicant has been made aware of the comments of the ASFB and is committed to such consultation as indicated in the Environmental Statement.

4.5 Ofcom has indicated that there are currently no fixed link ends within or fixed link paths that cross a 500 metres radius co-ordination area for the stated turbine locations as provided.

4.6 The Civil Aviation Authority has indicated that like any wind turbine development, the Galawhistle turbines have the potential to impact upon aviation-related operations. In an effort to establish the scale of any such impact caused by the Galawhistle development, the CAA has previously been involved in related consultation. At the scoping stage, the CAA advised that, in isolation, it had no site-specific observations; that remains the case. It appears that the radar concerns of NATS has yet to be resolved and that the Environmental Statement summarises that the turbines will cause unacceptable interference to safeguarding mechanisms at Lowther Hill (a NATS operated radar) and that the effect is considered to be of major significance. The CAA has also highlighted that there may be a need to install aviation obstruction lighting to some or all of the Galawhistle turbines should development proposals be progressed.

The position of NATS En Route with regard to the proposed Galawhistle development is provided in its consultation response as noted in section 4.15 below.

4.7 The Crown Estates has no comments to make on the proposed development as none of its interests are affected by the proposed development.

4.8 The Ministry of Defence (Defence Estates) has objections to the proposed development. In the interests of air safety, the MOD requests that the turbines are fitted with aviation lighting. The corner-most turbines and several turbines in the middle of the proposals should be fitted with 25 candela omni-directional red lighting at the highest practicable point.

4.9 Marine Scotland has no objections to the proposed development but indicates that the developer should carry out invertebrate and fish surveys through the construction, operation and decommissioning phases of the wind farm.. As Marine Scotland (Science) is the government's lead organisation with regards to fisheries issues, the monitoring plans for water chemistry, invertebrates and fish should also come to the Marine Scotland (Freshwater Laboratory) to be passed before commencement of monitoring.

The applicant has been made aware of the comments of Marine Scotland.

4.10 South Lanarkshire Council resolved on 23 August 2011 not to object to the proposed Galawhistle Wind Farm, subject to appropriate planning conditions and obligations to be secured through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 (as amended).

4.11 Glasgow Prestwick International Airport (GPA) indicates that the applicant, Infinis, has correctly reflected GPA's observations with regard to this proposed development. Galawhistle is some 40 kilometres distant from GPA and will be entirely terrain shielded from GPA's radar and ,as a consequence, GPA has no objections to the construction of this wind farm. GPA notes that Infinis has still to resolve the aviation objections from NATS EN Route.

4.12 The Health and Safety Executive has not responded to the consultation letter.

4.13 Historic Scotland states that in summary, it is content with the principle of the proposed development in this location and are content that there are unlikely to be any significant adverse impacts on historic environment assets within our statutory remit. Consequently, we offer no objection to the proposal. HS further advises that information and advice should be sought from the Council's archaeological and conservation service on sites of regional and local importance identified in the ES, if you have not already done so.

The West of Scotland Archaeology Service has been consulted on the proposed development as indicated in section 4.23 below.

4.14 Transport Scotland states that the proposed development represents an intensification of the use of this site however the percentage increase in traffic on the trunk road is such that the proposed development is likely to cause minimal environmental impact on the trunk network. On this basis there are no specific trunk road comments.

4.15 National Air Traffic Services (NATS En Route plc) objects to the proposed development at it conflicts with its safeguarding criteria. The Galawhistle development has been assessed by its technical and operational safeguarding teams. It has been determined that at a range of only 12 nm and with insufficient terrain screening to attenuate the signal, turbines of the size proposed are likely to cause false primary radar plots to be generated. A reduction of the primary radar's ability to detect small aircraft at low altitude in the airspace residing directly above the wind farm is also anticipated.

NATS has objected to the proposed development for safeguarding reasons. However NATS and the developer are in discussions with a view to identifying a suitable mitigation to the adverse aviation impacts. At this time, no suitable technical solution on which a suitable mitigation may be based has been identified although both parties are committed to working together to deliver the requisite mitigation. Such a process however would be outwith the scope of the planning system. Nonetheless, it is considered that no development should be commenced until NATS is fully satisfied that the technical issues with respect to impact on radar are fully resolved without any adverse effect in terms of its provision of a safe and effective air traffic service.

4.16 The River Ayr District Salmon Fishery Board has not responded to the consultation letter.

4.17 Muirkirk Community Council has not responded to the consultation letter.

4.18 The Royal Society for the Protection of Birds (Scotland) notes that the application site is comprised of grassland, heath and wet modified bog and lies within 1.1 km of the Muirkirk and North Lowther Uplands SPA and Muirkirk Uplands SSSI. The SPA is designated for the internationally important populations of breeding hen harrier, merlin, peregrine, short-eared owl and golden plover and non-breeding hen harrier it supports. The SSSI is also designated for its nationally important upland habitats and upland breeding bird assemblage. RSPB notes and welcomes the fact that this application is smaller in scale and at a greater distance from the SPA than the previous Spireslack proposal.

RSPB does not believe that the proposal would have a significant impact on bird populations of conservation importance within the site or have an adverse effect on the integrity of the Muirkirk and North Lowther Uplands SPA. RSPB believes that habitat impacts and minor impacts on priority bird species can be mitigated and we therefore do not object to the application, subject to the following measures being secured through suitable conditions or legal agreement:

- (i) Site clearance activities and where possible, construction, will take place outwith the bird breeding season (March to July inclusive);
- (ii) Appointment of an appropriately qualified ecologist as Ecological Clerk of Works to oversee construction of the development and implementation of the Habitat Management Plan (HMP);
- (iii) A construction method statement will be produced for peat handling, storage and after use;
- (iv) A Habitat Management Group (HMG) shall be established to oversee the preparation and delivery of the HMP and to review and assess the results from ongoing monitoring;
- (v) The HMG shall include a representative of East Ayrshire Council, SNH and RSPB and shall have powers to make reasonable changes to the HMP necessary to deliver its agreed aims;
- (vi) A minimum of three months prior to the date of the Commencement of Development, the developer shall submit a finalised HMP to the planning authority for approval in consultation with the HMG. Commissioning of the turbines shall not occur until such approval has been obtained;
- (vii) The HMP will operate for the full lifespan of the wind farm, including decommissioning;
- (viii) The mitigation identified in the HMP will be fully implemented in accordance with an associated section 75 agreement, with an attached financial bond; and
- (ix) Survey and monitoring of species and habitat will be carried out to assess the effectiveness of mitigation and will be specified in the HMP.

The Planning Authority can indicate to the Scottish Ministers that it is considered that the RSPB recommendations (i) to (ix) should be addressed by conditions attached to any consent granted for the proposed development or by means of obligations secured by a Section 75 Agreement under the Town and Country Planning (Scotland Act, 1997 (as amended)). It is also recommended that in

relation to point (v), the HMG should also have representation from South Lanarkshire Council.

4.19 The Ayrshire Rivers Trust has not submitted any formal comments regarding the Galawhistle development as it is on the very edge of the River Ayr catchment. The access road is via one of the existing opencast mine routes, but apart from that any impact would be peripheral.

4.20 The Scottish Environment Protection Agency, following an initial objection to the proposed development, confirms that it is now satisfied that sufficient information has been provided such that it can withdraw its objection which was based on a lack of information relating to the potential impact of the development on the groundwater environment. It should be noted, however, that SEPA objected to the proposal unless 2 conditions were inserted into any consent granted and that this aspect of SEPA's previous response, along with the other comments offered, remain valid and should be read in conjunction with this update. These two conditions relate to the following matters:

- (i) A water level and quality monitoring programme will be undertaken prior to any construction and during construction. This shall include visual inspections of water features and periodic ad hoc sampling and analysis of surface water, groundwater and private supplies (e.g. turbidity and pH) so measures can be taken if needed. This water monitoring plan should be completed in consultation with SEPA.
- (ii) Scottish Planning Policy (paragraph 218) recommends that a site waste management plan be used to minimise waste at source on construction sites. In the interests of seeking best practice and meeting the requirements of SPP, SEPA objects to this application unless a planning condition is attached ensuring that, prior to the commencement of development, a full site waste management plan is submitted and approved by the planning authority, in consultation with SEPA, and that the development is implemented in accordance with the plan.

The Planning Authority can indicate to the Scottish Ministers that the above conditions should be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of SEPA.

4.21 Scottish Natural Heritage, following an initial objection to the proposed development, has provided revised advice following the receipt of additional information and clarifications from the applicant. This was on the basis that there was insufficient information in the submitted Environmental Statement to ascertain whether the Galawhistle development would have an adverse impact on the integrity of the Muirkirk and North Lowther Uplands Special Protection Area (SPA), the Muirkirk Uplands SSSI and the North Lowther Uplands SSSI. In respect of the SPA, this information was necessary to inform an "appropriate assessment" of the proposals as required under the terms of the Habitats Directive.

SNH now advises that the proposal will not adversely affect the integrity of the Muirkirk and North Lowther Uplands SPA. In SNH's view, the Galawhistle proposal is likely to have a significant effect of the qualifying interests of the site. As a consequence, the Scottish Government is required to undertake an appropriate

assessment in view of the site's conservation objectives for its qualifying interests. To assist in this process, it is the view of SNH that if the proposal is undertaken strictly in accordance with the following condition, then the proposal will not adversely affect the integrity of the site:

"The Habitat Management Plan (HMP) must be submitted to South Lanarkshire Council and East Ayrshire Council for approval, in consultation with Scottish Natural Heritage, prior to any works commencing on the site. Once approved the HMP should be fully implemented."

The Planning Authority can indicate to the Scottish Ministers that the above condition should be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of SNH.

Further information provided on the proposed HMP confirms that it will cover the entire land holding by Infinis (795 ha) at the Galawhistle site including additional offsite habitat enhancement works at Airds Moss (202 ha). The further information provided by the applicant also allows SNH to confirm that the Muirkirk Uplands SSSI, the North Lowther Uplands SSSI and the Shiel Burn SSSI will not be significantly affected by the proposed development. Subject to appropriate mitigation being undertaken as prescribed within the Environmental Statement, SNH also has no objection relating to protected species, impact on peat areas and UKBAP species. SNH advises that there will be no adverse effects on the integrity of the landscape designations within the study area, particularly the River Ayr - Lugar Water Sensitive Landscape Area and the Afton Sensitive Landscape character Area, insofar as it relates to East Ayrshire.

SNH considers the cumulative landscape and visual assessment within the ES underplays the likely cumulative and visual impacts of the proposed development and advises that there is a lack of design layout compatibility between the proposed development and the adjacent Hagshaw Hill Wind Farm and its extension such that the two developments will not read as a single composite and integrated wind farm development. SNH indicates that if the Galawhistle development layout is not revised to relate more directly to the Hagshaw Hill layout, SNH advises that turbines W1 and W16 should be omitted.

It is noted that both these turbines are located within South Lanarkshire. In respect of this matter, South Lanarkshire Council is of the view that, having carefully considered both the comments received from SNH the information received from the applicant, viewed the site and its context and taken into account the existing consent for a proposed development with turbines 115m in height at Nutberry Hill Wind Farm, to the north, it is considered that that the proposed development will be seen as an extension of existing wind farms despite the differences in scale, size and mass of Hagshaw Hill and its extension. Consequently, it has not sought to seek removal of the two turbines WT1 and WT16.

4.22 Scottish Water has no objections to the proposed development.

4.23 The West of Scotland Archaeology Service is content with the methodological approach used in the assessment of cultural heritage issues for the Environmental Statement. While there are minor factors relating to the definition of significant distances for potential adverse setting impacts and individual site assessment criteria with which WOSAS is not in full agreement, on balance, the execution of the agreed methodology has resulted in an assessment of potential effects which WOSAS can endorse. Accordingly, WOSAS does not consider that the scale of likely effects on archaeological resources within East Ayrshire would justify an objection by the Council to this application on the basis of current development plan archaeological policies.

The summary conclusions of WOSAS, on the basis of the submitted information and the associated mitigation proposals, are:

- (a) that the construction and operation of the proposed wind farm would have no additional significant direct impact on known archaeological resources within the Council boundary;
- (b) that the identified slight and neutral direct impacts on archaeological resources can be handled by attachment of a suitable archaeological condition attached to any consent which may be issued; and
- (c) that indirect visual impacts on the settings of significant monuments outwith the development boundary are likely to be slight and adverse, but of negligible significance.

Accordingly, WOSAS recommends that the necessary mitigation measures for predicted direct impacts be secured by suitably drafted conditions as follows:

“No development shall take place until temporary fencing, or other temporary marker, has been erected in a manner to be agreed with the Planning Authority, to protect known archaeological sites within the wind farm area; and no works shall take place within the area inside that fencing, or other temporary marker, without the prior agreement of the Planning Authority.” and

“No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.”

The Planning Authority can indicate to the Scottish Ministers that appropriate conditions should be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of WOSAS.

4.24 The Forestry Commission Scotland states that the Galawhistle development proposals will have little or no effect on woodland within the site

boundary or adjacent. On that basis FCS has no comment to make on the application.

4.25 The Mountaineering Council of Scotland has not made any comments on the proposed development as there are little issues affecting its interests.

4.26 The Ayrshire Joint Structure Plan Team notes that the majority of the site is located in South Lanarkshire but two turbines, a permanent anemometer and some of the access tracks lie within East Ayrshire. It is also noted that the site is characterised by the Spireslack Open Cast Coal site immediately to the west. This proposal requires to be assessed against Policy ECON6- Renewable Energy, ECON7: Wind Farms within the Structure Plan, and other relevant Structure Plan policy, in particular STRAT1: Environmental quality and ENV1(E): Landscape Quality.

AJSPT would make the following comments:

(i) ECON6: Proposals are required to demonstrate that there will be no significant adverse impact, including cumulative impact and that the design of the development is sensitive to landscape character, biodiversity and cultural heritage.

(ii) ECON7A: The proposal does not lie within an area of search identified in the Structure Plan for large and small scale wind farms.

(iii) ECON7B: The Guidance approved by the three Ayrshire Councils (Addendum to the Ayrshire Joint Structure Plan (report TR03/2006- Guidance on the location of Wind farms within Ayrshire) affords this area significant protection from the cumulative impact of large scale wind farms.

(iv) ECON7C: The views of SNH should be sought on any possible impact of this development on the sensitive landscape and the area adjoining the Muirkirk and North Lowther Uplands SPA.

(v) ECON7D: The guidance approved by the three Councils in Ayrshire has sought to minimise the adverse cumulative impacts that arise from wind farm development by directing these forms of development toward the two broad areas of search within the Structure Plan. These areas are confirmed on the key diagram. Establishing a clear boundary to the areas of search and maintaining visual separation from other wind farms will allow for a clear distinction to be perceived between the designated wind farm landscape and the landscape beyond. Significant protection to the areas in the vicinity of these newly created wind farm landscapes (areas of search) has therefore been given through the approved guidance. The guidance presumes against development within a 30km radius area beyond the boundary of the Broad Areas of Search.

It was however recognised that ,subject to careful analysis and consideration, sites for a limited scale of development that do not undermine the area of significant protection and are in locations of low landscape and visual sensitivity may be acceptable. This proposal however is likely to be particularly prominent and visible over a wide area with a visual impact on the community of Muirkirk, Cairn Table and the A70 route. The landscape character type within which this proposal sits is "Plateau Moorland", and whilst it is recognised that large parts of this landscape type are suitable for wind farms (areas afforested- i.e. the search areas), proposals out

with these areas , as in this case, are likely to introduce vertical elements and movement which would contrast with the character type and those of the adjoining landscape character type (Upland River Valley) . Landscape policy reflected through the Landscape Character Assessment Guidance seeks to conserve the open and largely undeveloped character of these moorland hills and to encourage wind farm development to locate away from key skylines. The cumulative impact of this new development should also be considered against the existing impact and duration of the adjoining opencast coal operation.

(vi) ECON7E: Historic Environment- No strategic issues; Natural Heritage - No strategic issues; Tourism & Recreation - refer to comment on cumulative impact; Communities- refer to comment on cumulative impact; Buffer Zones- No strategic issues; Aviation - Whilst this proposal does not appear to raise any aviation issues, this should be clarified through consultation with Glasgow Prestwick Airport and other aviation bodies; and Broadcasting installations - No strategic issues.

A full assessment against the provisions of the Ayrshire Joint Structure Plan is given in section 6 below.

5. REPRESENTATIONS

5.1 It is notable that this proposed wind farm development has not attracted any significant level of third party representations and no representations on the proposals have been received directly by this Council. Only three letters of representations sent to the Scottish Government have been copied to this Council, one of which was an objection from Douglas Community Council which has raised concerns regarding the use of the A70 for the delivery of the turbines components and associated construction traffic. The Community Council has concerns regarding the lack of a Traffic Management Plan in this regard. The operator of the existing Hagshaw Hill wind farm has objected on the grounds of potential cumulative noise impacts. The third letter of representation objects on the grounds of adverse landscape and visual impacts.

While the consideration of these letters of objection are for the Scottish Ministers to consider, it is noted that the preparation of a Traffic Management Plan should be the subject of planning conditions or obligations within a Section 75 Legal Agreement to be agreed between East Ayrshire Council and South Lanarkshire Council as Roads Authorities.

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 Policy ECON7 of the adopted 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.'

It is considered that the proposal is broadly in accordance with ECON6; however, an assessment of the impacts is made in more detail in relation to ECON7 below.

6.3 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. Policy ECON7 specifically relates to wind farm development and states:

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.*

The Galawhistle wind farm proposal does not lie within an Area of Search as defined in the approved Ayrshire Joint Structure Plan.

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

In respect of criterion (B), the consultation responses from SNH and RSPB indicate that, subject to appropriate mitigation secured by conditions and legal obligations through a Section 75 Agreement, there would be no significant adverse impacts on natural heritage interests.

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

Subject to appropriate conditions or legal obligations, it is considered that the proposed wind farm will not compromise the integrity of any national or international designations as advised by SNH in its consultation response.

(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 technical guidance (Addendum to the Ayrshire Joint Structure Plan Technical Report TR03/2006: Guidance on the local of wind farms with Ayrshire) that has been approved by the three Ayrshire Councils to support this policy, indicates that cumulative impact should be assessed in terms of (i) landscape; (ii) natural heritage; and (iii) aviation interests.

(i) In terms of landscape, the technical guidance identifies a 30km buffer around the large scale areas of search, in which there will be a presumption against further large scale wind farm developments. However, it is further stated that there may be opportunities for some degree of development where it can be demonstrated that areas of protection will not be undermined and that the cumulative landscape and visual effects will be acceptable.

The information submitted by the applicant indicates that there will be no cumulative impacts on the landscape, landscape designations or views from settlements across the study area. It is considered that this assertion is inaccurate and indeed the wireframe images included within the environmental statement show a cumulative impact from several viewpoints within East Ayrshire. Of most concern, is the cumulative impact of this current proposal when taken with the other wind farms visible from Cairn table, a key view point within East Ayrshire. The wireframes from this point show a proliferation of wind farms from a number of directions, with the current proposal adding to an existing cumulative impact.

Whilst it is considered that there will be some cumulative impact, most notably from Cairn table, it is considered that on balance the cumulative impact on the landscape within East Ayrshire will not be of such a scale to conclude that the proposal is unacceptable.

(ii) With regard to natural heritage designations, whilst the proposal is in close proximity to the Muirkirk Uplands SPA and associated SSSIs, it is considered that the proposed wind farm will not result in unacceptable cumulative impact.

(iii) In terms of aviation interests, it is noted that NATS En Route has objected to the proposed development in safeguarding terms.

(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;

There are no built heritage interests that would be affected by the proposed development, although WOSAS has recommended that an archaeological watching brief be maintained during the construction period.

- *Areas designated for their regional and local natural heritage value;*

The consultation responses from SNH and RSPB indicates that, subject to appropriate mitigation secured by conditions and legal obligations through a Section 75 Agreement, there would be no significant adverse impacts on natural heritage interests.

- *Tourism and recreational interests;*

The structure plan technical guidance identifies a number of regionally significant tourist resources, with includes the sensitive landscape character areas. Whilst the proposed site is outwith the sensitive landscape area as identified within the Structure Plan, it is in close proximity to it and will be visible from the area,

The wind farm will also be clearly visible from a number of other key tourist viewpoints, including Cairn Table and the River Ayr Way. It is, however, noted that from most vantage points, the proposal will add to the existing view of the Hagshaw Hill wind farm that has already been established, rather than creating a new wind farm landscape.

- *Communities;*

The main impact on local communities will be the traffic impacts occurring during the 14 month construction period. However, these impacts, which are based on worst case scenarios, will be temporary in nature and do not readily impact on communities within East Ayrshire.

In order to avoid unacceptable noise, shadow flicker and visual impacts on towns/villages and individual dwellings, the structure plan technical guidance states that developments will not generally be supported where they are within 2km of a town or village or within 700 metres (or a distance of 10 x the turbine rotor diameter in this case 850 metres) of an individual dwelling, workplace or community facility unless the developer can demonstrate that the impacts are acceptable.

The nearest individual dwelling to the proposed wind farm is approximately 1km away, whilst the nearest settlement, Muirkirk, is approximately 6km away. Whilst the wind farm will be clearly visible from Muirkirk and indeed other settlements within East Ayrshire, it is considered that the impact will not be unacceptable.

- *Buffer zones;*

Whilst the proposal is within the 30km buffer identified in the structure plan technical guidance, information has been submitted in order to demonstrate that the application will not have unacceptable impacts.

- *Aviation and defence interests;*

As indicated in section 4.15 above, NATS has objected to the proposed development for safeguarding reasons. However NATS and the developer are in discussions with a view to identifying a suitable mitigation to the adverse aviation impacts. At this time, no suitable technical solution on which a suitable mitigation may be based has been identified although both parties are committed to working together to deliver the requisite mitigation. Such a process however would be outwith the scope of the planning system. As stated in section 4.15 above no development should be commenced until NATS is fully satisfied that the technical issues with respect to impact on radar are fully resolved without any adverse effect in terms of its provision of a safe and effective air traffic service.

- *Broadcasting installations.*

There are no broadcasting installations affected by the proposed development. The applicants should, through a Section 75 agreement, be required to enter into an agreement to rectify any interference should this occur after construction.

(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.

Whilst the proposal is not located in a Sensitive Landscape Character Area, it will be clearly visible from parts of the large Sensitive Landscape Area to the north and south of Muirkirk.

(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.

A number of the criteria listed in this criterion have already been assessed in relation to point (E) above.

The potential impact of the proposal on communities has been assessed in respect of all pertinent planning matters, including the potential for the wind farm to generate developer contributions for community benefit.

The potential impact of the proposal on the historic environment, including listed buildings/structures, ancient monuments and

archaeological sites have been fully assessed in consultation with Historic Scotland and the West of Scotland Archaeological Service;

East Ayrshire Local Plan

6.4 The need to reduce dependence on fossil fuels and nuclear power for energy production is reflected in the Scottish Renewables Obligation which requires that an ever increasing proportion of electricity be produced from renewable sources. The renewable energy source most relevant to East Ayrshire is wind power, and the upland areas which catch the prevailing westerly winds are coming under pressure for wind energy related developments. While supportive of renewable energy projects, it is considered imperative that the more sensitive parts of the rural area in terms of landscape quality, nature conservation and heritage interest are adequately protected. The potential impact of wind farm development on the environment and visual amenity of the area is of particular concern to the Council.

6.5 Policy ENV15 states that the Council will not be supportive of development which would cause unacceptable and irreparable damage to important landscape features within rural areas. In this regard, developers will be expected to conserve and enhance, (and reinstate or replace where appropriate) those features which contribute to the intrinsic landscape value and quality of the area concerned and which are likely to be adversely affected by the particular development proposed, including:

- (i) existing setting of settlements and buildings within the landscape;
- (ii) existing woodlands, shelter belts, hedgerows and trees;
- (iii) existing burns, rivers, lochs and other water features;
- (iv) existing field patterns and means of enclosure including dry stone dykes, hedging and fencing;
- (v) existing Public Rights of Way, footpaths and bridleways; and
- (vi) existing skylines, landform and contours.

It is considered that the ES which accompanies the Section 36 Application has fully considered the issues of impact on local landscape characteristics and provides appropriate mitigation in this regard.

6.6 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 of the rural area in which it is located, in terms of layout, materials used, design, scale, finish and colour. The design and material finish of any ancillary features will also require to be sympathetic to the character and appearance of the area;

The proposed wind farm cannot be described as in keeping with the rural area. Whilst the proposal will be clearly visible from certain viewpoints, it is considered that this will not be to such a degree as to make the proposal unacceptable.

- (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 located; and

It is considered that the proposed siting of the individual turbines is the most appropriate in terms of minimising the overall impact of the development on the landscape.

- (iii) the landscape setting of a particular area affected by a proposed development is safeguarded from adverse or irreversible change by the use of appropriate planning conditions, management agreements, preparation and promotion of environmental improvement schemes. Development and design briefs etc.

Any consent granted should be appropriately conditioned and/or be the subject of a Section 75 agreement to ensure that there are no long term adverse or irreversible changes to the landscape in which the wind farm would be situated.

6.7 Policy CS12 states 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:

- (i) on any recognised statutory or non statutory sites of nature conservation interest;

The consultation responses from SNH and RSPB indicate that, subject to appropriate mitigation secured by conditions and legal obligations through a Section 75 Agreement, there would be no significant adverse impacts on natural heritage interests.

- (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;

It is not considered that with the mitigation measures proposed within the ES that there will be any significant adverse impact on residential properties through noise and other potential nuisance. With regard to visual dominance in relation to proximity to local communities, this is not a significant issue given the sparsely populated locality and the distance between the proposed development and the nearest communities.

- (iii) on any recognised built heritage resources, including Listed Buildings, Conservation Areas, Scheduled Ancient Monuments, archaeological sites

and landscapes and Historic Gardens and Designed Landscapes and their individual settings;

Subject to appropriate conditions being attached to any consent granted Historic Scotland, WOSAS and SNH do not object to the proposed development.

- (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; and

As has been stated in relation to the Structure Plan policies, it is considered that the proposal, by its very nature, will have a visual impact on both the immediate setting of the site and on certain key vantage points in the wider landscape. However, given the relative remoteness of the site from settlements and individual dwellings and on the basis that many views of the area already have wind turbines introduced through the adjacent Hagshaw hill wind farm, it is considered that the visual impacts will not be unacceptable.

- (v) on existing infrastructure.

It is considered that there will be no unacceptable impact caused by the proposed connections to link the proposed development with the national grid and surrounding road network, subject to the imposition of appropriate planning conditions and / or obligations secured by means of a Section 75 Agreement.

6.8 Policy CS14 states 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 ECON7 of the approved Ayrshire Joint Structure Plan: Growing a Sustainable Ayrshire and any future supplementary planning guidance to be prepared relating to cumulative impact.

The criteria listed above fully reflect the provisions of Structure Plan policy ECON7. Please refer to detailed comments in relation to ECON7 in paragraph 6.2 above

6.9 Policy CS15 states that the Council, 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.'

Should the application be approved by the Scottish Ministers, the Council will request that the applicant be required to enter into a

Section 75 Agreement with the Council for contributions to the above Renewable Energy Fund, with regards to the turbines that fall within East Ayrshire.

6.10 Policy CS16, 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.

The Planning Authority can indicate to the Scottish Ministers that a condition should be attached to any consent granted for the proposed development to ensure that the developer meets the provisions of Policy CS16.

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 (SPP), consultation responses, representations and relevant planning history

Consultations Responses

7.2 There are no significant adverse comments received from statutory and non-statutory 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

7.3 Of the representations received indirectly by this Council, there are concerns particularly in relation to landscape character and visual amenity impacts which are considered to be 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 however, PAN45 on Renewable Energy Technologies, under paragraph 71, states:

'There are no landscapes into which a wind farm will not introduce a new and distinctive feature. Given the Scottish Ministers' commitment to addressing the important issue of climate change and the contribution expected from renewable energy developments, particularly wind farms, it is important for society at large to accept them as a feature of many areas of Scotland for the foreseeable future.'

Scottish Planning Policy

7.4 The Scottish Planning Policy document (SPP) was published in February 2010 and set out Scottish Planning Policy on various land use planning matters including renewable energy developments. The SPP set out a target of 50% of

Scotland's electricity to be generated from renewable sources by 2020; however following publication of the SPP, this target has subsequently been revised and increased to 100% by 2020 by the Scottish Government. The SPP indicates 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. The SPP requires planning authorities to prepare development plans which set out a spatial framework for onshore wind farms of over 20MW. The SPP provides likely criteria, which includes:

- Landscape and visual impact;
- Effects in the natural heritage and historic environment;
- Contribution to the development to renewable energy generation targets;
- Effect on the local and national economy and tourism and recreation interests;
- Benefits and disbenefits for communities;
- Aviation and telecommunications;
- Noise and shadow flicker; and
- Cumulative impact.

The requirements of SPP have been addressed in East Ayrshire through the Addendum to the Ayrshire Joint Structure Plan (Technical Report TR03/2006). In this regard the main issues as stated above have already been considered and addressed in section 6 above.

PAN 45 Renewable Energy Technologies and Annex 2 Spatial Frameworks and Supplementary Planning Guidance for Wind Farms has been replaced with web-based renewables advice, which is to be regularly updated. The Specific Advice Sheet for onshore wind turbines was last updated on 04 August 2011. It supports the SPP by providing information and best practice on renewable energy developments. It gives advice on specific matters for planning authorities to focus upon, technical information and typical planning considerations to be taken into account in determining planning applications for onshore wind turbines.

Planning History

7.5 In 2005 Scottish Coal submitted a Section 36 Application to the Scottish Ministers for a 42 turbine wind farm development, known as Spirelack Wind Farm that included land forming part of the current Galawhistle site. The Spirelack Wind Farm application was withdrawn before any decision was made. Due to the proximity of the adjacent Muirkirk and North Lowther Uplands Special Protection Area (SPA) and known bird flight activity, it was considered necessary to reduce the number of turbines to 29. In addition, the scoping layout for the proposed Galawhistle Wind Farm was further refined resulting from an appreciation of the physical characteristics of the site, as well as a need to ensure that appropriate wind capture and turbine spacing criteria were considered. Following consideration of the constraints identified at scoping stage the layout was further revised with a reduction in turbines from 29 to 22.

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 Galawhistle Wind Farm development, this will 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 In terms of the Electricity Act 1989, Schedule 9 (3) states:

'PRESERVATION OF AMENITY AND FISHERIES: SCOTLAND

(1) In formulating any relevant proposals, a licence holder or a person authorised by an exemption to generate or supply electricity –

(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

(2) In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to–

(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and

(b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.'

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 and therefore should only succeed if material considerations indicate otherwise. As is indicated at Section 7 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application in terms of national policy, planning advice and the majority of consultees. It is also material that there is not any significant level of objection to the proposed development and has in fact generated more expressions of local support.

9.2 The proposed Galawhistle Wind Farm development, insofar as it relates to East Ayrshire, is considered to be contrary to Policies ECON 7(A), and ECON7(E) of the approved Ayrshire Joint Structure Plan 2007 and consequently Policy CS14 of the adopted East Ayrshire Local Plan 2010 in that the proposed development does

not fall within an identified Area of Search for a wind farm development of this scale. However, the greater part of the Galawhistle development falls within South Lanarkshire which, through its development plan and Supplementary Planning Guidance on Renewable Energy, has identified the Galawhistle site as an Area of Search for wind farm development and therefore the development is consistent with its development plan.

9.3 Whilst the proposal will be visible from a number of key vantage points within East Ayrshire, it is considered that the proposal is not unduly prominent to draw the conclusion that the proposal is unacceptable in landscape terms. This is in part on the basis that the proposal is relatively remote from existing dwellings and settlements and also on the basis that the existing site at Hagshaw Hill has already introduced turbines into the locality, with this proposal effectively adding to this established development rather than creating a new wind farm landscape.

9.4 It is therefore considered that the greater weight would then fall with the provisions of SPP. In such circumstances, it is considered that, notwithstanding the landscape and visual impacts associated with the Galawhistle proposal, these are not considered to be of such weight to set aside the clear and stated provisions of SPP for the reasons stated elsewhere within this report, particularly as the Galawhistle proposal has, remarkably, not attracted any significant level of third party objections (and none from within East Ayrshire) and that issues raised by other statutory consultees can be addressed.

9.5 The remaining significant issue is that of aviation impacts as indicated in the consultation response from NATS. No mitigation has been identified within the Environmental Statement but NATS and the developer are in discussions with a view to identifying a suitable mitigation to the adverse aviation impacts. At this time, no suitable technical solution on which a suitable mitigation may be based has been identified although both parties are committed to working together to deliver the requisite mitigation. It is considered that a suspensive condition could be attached to any consent granted for the Galawhistle development to prevent any works commencing on site until the appropriate mitigation has been agreed between parties and subsequently implemented as agreed.

9.6 It is recognised that the proposed development would result in potential benefits to the natural environment and 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 both on site and off site.
- the setting up of a Habitat Management Group involving relevant stakeholders to inform on management of these areas;
- the securing of developer contributions to promote socio-economic benefit to local communities;
- the significant benefits accruing from the construction programme that potentially would generate substantial local output in the East Ayrshire and South Lanarkshire economies together with the proposed and potential socio-economic benefits described in this report.

9.7 The proposed Galawhistle development will provide socio-economic benefits to the local area particularly for Muirkirk and could assist positively the regeneration of this community which has suffered from economic decline since the closure of the deep mining industry.

9.8 Taking all relevant matters into consideration, it is considered on balance that the Council should offer a non-objection to the Galawhistle development subject to appropriate conditions and legal obligations under a Section 75 Agreement as described elsewhere in this report. Should Scottish Ministers be of a mind to approve the application, consent should be withheld until legal agreements have been concluded in order to ensure that development and operation of the site takes place in an acceptable manner, and any impacts are properly mitigated.

10. RECOMMENDATIONS

10.1 It is recommended that the Council does not formally object to the proposed development and 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 Galawhistle Wind Farm development in terms of the Electricity Act 1989.

10.2 In the event that the Scottish Ministers are minded to grant consent for the Galawhistle Wind Farm development, the Council respectfully requests that the conditions listed in Appendix 1 of this report (or as may be further amended in discussion or negotiation) are incorporated in any consent granted or secured by means of a Section 75 Agreement in terms of the Town and Country Planning Act 1997 (as amended).

Alan Neish
Head of Planning and Economic Development

25 September 2011
HM/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 Galawhistle Wind Farm Environmental Statement
8. Scottish Planning Policy

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 576753.

Implementation Officer: Hugh Melvin

APPENDIX 1

LIST OF MATTERS TO BE INCLUDED AS SECTION 36 APPROVAL CONDITIONS, PLANNING CONDITIONS OR LEGAL OBLIGATIONS SECURED BY A SECTION 75 AGREEMENT IN TERMS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

Conditions of Section 36 Consent

1.1 The commencement of the development shall be no later than 5 years from the date of this consent or such other period as the Scottish Ministers may hereafter direct.

1.2 No turbine, crane pad or access track shall be sited except:

(a) In the positions shown on Figure 1.2 within the Galawhistle Environmental Statement; or

(b) In a position not more than 50 metres from the position shown on the Figure 1.2 with the written approval of the Scottish Ministers.

1.3 No development shall commence until a Primary Radar Mitigation Scheme has been submitted to and approved in writing by the Scottish Ministers, in consultation with National Air Traffic Services (NATS EN Route plc), East Ayrshire Council and South Lanarkshire Council, to secure satisfactory mitigation of the impact of the development on the operation of its primary search radar at Lowtherhill. No turbine shall be erected until the approved Primary Radar Mitigation Scheme has been fully implemented and thereafter the development shall be operated in full accordance with the scheme.

1.4 Within 12 months prior to the end of the period of this consent as detailed in paragraph 1.6 below (unless a further consent is granted) all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land shall be restored and subject to aftercare, in accordance with the restoration and aftercare scheme referred to in paragraph 1.5. For the purposes of this condition "restored" means the removal of all wind turbines, turbine pads, initial layer of foundation and all buildings and ancillary development. Notwithstanding this requirement, no later than one year prior to commencement of the restoration and aftercare scheme, the Scottish Ministers in consultation with the Planning Authority and Scottish Natural Heritage, shall review the retention of pads, cable/ducts and access tracks within the context of the restoration strategy, landscape strategy and access strategy to identify any elements to be retained on site or requiring alternative reinstatement.

1.5 No later than 2 years prior to the decommissioning of the development, a restoration and aftercare scheme shall be submitted for the approval of the Scottish Ministers in consultation with the Planning Authority, Scottish Natural Heritage and such other parties as the Scottish Ministers consider appropriate.

General Planning Provisions

1.6 The consent is for a period of 25 years from the commencement date of generation of electricity from the development to the grid. Not later than 18 months before this expiry of the consent the developer shall submit for the approval of the Planning Authority a written decommissioning scheme providing for the removal of all surface elements of the development and the foundations of the wind turbines to 1 metre below ground level and for the environmental restoration of the site. The scheme shall be implemented as approved.

1.7 At least one month prior to the commencement of the development, the applicant shall provide to the Planning Authority details of the bond or other financial provision which it proposes to put in place to cover all site restoration costs on the expiry of this consent. No work shall commence on the site until the applicant has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory. The applicant shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent and the bond will be subject to a review every 5 years, from the commencement of the development, to be conducted by the applicant, the landowners and the Planning Authority.

1.8 If any wind turbine which has commenced generation to the grid fails to generate electricity for a continuous period of 6 months then, unless otherwise agreed in writing with the Planning Authority, the wind turbine (including its foundation to 1 metre below ground level and its ancillary equipment) shall be dismantled and removed from the Site within 6 months and the ground fully reinstated to the satisfaction of the Planning Authority.

1.9 No part of the development shall display a name, logo, sign or advertisement unless such signage is required under other legislation. The site shall not be lit without the prior written approval of the Planning Authority.

1.10 All the blades of the wind turbines shall rotate in the same direction.

1.11 The finish of the wind turbines shall be semi-matt and their colour shall be approved in advance in writing by the Planning Authority.

1.12 All electricity or control cables between the turbines, substation and control building shall be laid underground and alongside tracks which are constructed on the site as part of the development unless otherwise agreed in writing with the Planning Authority.

1.13 No construction material to be used for the development shall be brought on Site unless it has certification from an UKAS accredited laboratory to confirm that the material is not contaminated.

1.14 No fuel, oil, lubricant, paint or solvent shall be stored on site other than within bunds or double skin tanks which must be locked and capable of containing at least 110% of the largest capacity vessel stored therein and any spillage of any oil shall be cleaned-up immediately. Any electrical equipment utilising oils or organic fluids should similarly be in a bunded area sufficient to contain any spillage. Details of

the arrangements for such storage and contingency plans for dealing with spillages shall be submitted to the Planning Authority for approval no less than three months prior to the commencement of the development.

1.15 No wind turbines shall generate electricity to the grid until a scheme of investigation and alleviation of any electromagnetic interference for TV and radio reception which may be caused by the operation of the turbines hereby permitted has been submitted to and approved in writing by the Planning Authority. Any remedial measures shall be implemented by the developer without delay, and procedures set out in the approved scheme shall be followed at all times.

The Construction of the Development

1.16 The applicant shall take all practicable measures to ensure that the effect on private water supplies are minimised. It is requested that the private water supplies in the vicinity are included in the water quality/quantity assessment which should take account of any appropriate mitigation measures and that this assessment be submitted to SEPA for approval.

1.17 No development shall commence until a Peat Management Statement (which shall be implemented as approved) has been submitted in writing to and agreed by the Planning Authority. The scheme shall include:

- (a) Provisions for the storage of excavated material from wind turbine foundations or for road construction;
- (b) Detailed means of construction of tracks on the site;
- (c) Arrangements for the management of water flows in connection with construction works;
- (d) Provisions for the supervision of construction staff at all times;
- (e) Arrangements (prior to the commencement of the development) for random investigations (including specialist movement dissection equipment); and
- (f) Arrangements for drainage during the construction period.

1.18 No development shall commence until a Construction Method Statement(s) (which shall be implemented as approved) has been submitted in writing to and approved by the Planning Authority. The scheme shall include:

- (a) A plan of the construction operations at an appropriate scale;
- (b) A plan to an appropriate scale shall be submitted to the planning authority showing the location of any contractor's site compound and laydown areas required temporarily in connection with the construction of the development.
- (c) Method of defining track route and location (track corridors should be pegged out 500 - 1000m in advance of operations);
- (d) Track design approach;
- (e) Maps of tracks indicating double and single tracks and position of passing places.
- (f) The full extent of anticipated track 'footprint(s)' including extent of supporting 'geogrid' below roadstone and cabling at the edges of the track;
- (g) Track construction: Floating track construction over peat >1m deep and gradients of 1:10 or less;
- (h) Track construction for peat <1m deep, or on gradients of >1:10, cross slopes or other ground unsuitable for floating roads.

- (i) Procedures to be followed when, during track construction, it becomes apparent that the chosen route is more unstable or sensitive than was previously concluded, including ceasing work until a solution, informed with reference to advice from the appointed ECoW, is identified;
- (j) Details of peat/soil stripping, storage and re-use. All soils stored on site shall be in accordance with BS3882; and
- (k) A scheme of working for each borrow pit

1.19 The Habitat Management Plan, Environmental Management Plan and Species, Breeding Birds and Habitat Protection Plan shall be submitted to East Ayrshire Council and South Lanarkshire Council for approval, in consultation with South Lanarkshire Council, Scottish Natural Heritage and RSPB Scotland a minimum of three months prior to any works commencing on the site. Once approved these should be fully implemented. Site clearance activities and where possible, construction, will take place outwith the bird breeding season (March to July inclusive). A Habitat Management Group (HMG) shall be established to oversee the preparation and delivery of the HMP and to review and assess the results from ongoing monitoring. The HMG shall include a representative of East Ayrshire Council, South Lanarkshire Council, SNH and RSPB and shall have powers to make reasonable changes to the HMP necessary to deliver its agreed aims. Commissioning of the turbines shall not occur until such approval has been obtained. The HMP shall operate for the full lifespan of the wind farm, including decommissioning. The mitigation identified in the HMP will be fully implemented in accordance with an associated legal agreement, with an attached financial bond. Survey and monitoring of species and habitat will be carried out to assess the effectiveness of mitigation and will be specified in the HMP.

1.20 A water level and quality monitoring programme will be undertaken prior to any construction activities and during construction. This shall include visual inspections of water features and periodic ad-hoc sampling and analysis of surface water, groundwater and private supplies, (e.g. turbidity and pH) so measures can be taken if needed. This water monitoring plan should be prepared and completed in consultation with SEPA.

1.21 Prior to the commencement of development, a full site waste management plan shall be submitted to and approved by the Planning Authority, in consultation with SEPA, and that the development shall thereafter be implemented in accordance with the approved plan.

1.22 No development shall take place until temporary fencing or other temporary marker has been erected in a manner to be agreed with the Planning Authority, to protect known archaeological sites within the wind farm area; and no works shall take place within the area inside that fencing, or other temporary marker, without the prior agreement of the Planning Authority.

1.23 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully

implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

1.24 Prior to commencement the public access proposals shall be submitted to South Lanarkshire Council and East Ayrshire Council for approval. The proposals should contribute to the development and implementation of this component of the South of Scotland longer distance route network as well as promoting recreational access use of the turbine array road network.

1.25 The development shall be carried out strictly in accordance with the terms of the Section 36 application and the accompanying ES, including all mitigation measures as stated within it, subject to these conditions.

1.26 Bird diverters shall be attached to the outer guy wires of the meteorological mast, at 2.5m intervals, prior to raising the mast, and maintained for the life of the mast.

1.27 Three months prior to the commencement of the development, an Ecological Clerk of Works (ECoW) shall be in place to oversee construction works. The ECoW shall be appointed by the developer and approved by the Planning Authority, for the period from commencement of development to final commissioning of the development. The scope of work of the ECoW shall include:

- (a) monitoring compliance with the ecological mitigation works that have been approved in this consent, including the mitigation measure identified in the Environmental Statement, Species, Breeding Birds and Habitat Protection Plan and the Habitat Management Plan;
- (b) advising the developer on adequate protection of nature conservation interests on the site;
- (c) directing the micro-siting and placement of the turbines and tracks, and monitoring compliance with the Construction Method Statement required by condition 1.18.

Off-Site Roads

1.28 No development shall commence until a Traffic Management Plan which accords with the Roads Traffic Act 1982 shall be submitted in writing to and approved by the Planning Authority. The scheme shall thereafter be implemented as approved. The Traffic Management Plan shall cover:

- (a) The intended turbine transportation route, timings and methodology;
- (b) All temporary works including relocation of signs, guardrails, bollards, street furniture and all temporary measures;
- (c) The duration, frequency and temporary measures required at each of the affected locations on a site specific basis;
- (d) Proposals for the transport of staff and construction materials; and
- (e) Any necessary mitigation.

The measures identified in the Transport Proposals report should be fully implemented. Any proposed amendments to the Transport Proposals report must be approved by the Planning Authority.

1.29 No development shall commence until the Planning Authority has approved a written scheme (which shall be implemented as approved) relating to the erection of signs on public roads advising drivers of heavy goods vehicles to remain on access routes approved under condition 1.23.

1.30 No development shall commence until the scheme relating to off-site public road improvements and measures for the monitoring and maintenance of public roads has been submitted in writing to the Planning Authority for approval. The scheme shall be implemented as approved. The costs of all requisite road infrastructure improvements and extraordinary road maintenance resulting from the proposed development shall be borne fully by the developer. The matters to be addressed include:

Assessment, Strengthening Works and Maintenance

- (a) A full structural assessment of the A70 will required to be undertaken by the applicant and agreed with East Ayrshire Council prior to commencing any work on site.
- (b) All identified necessary road works required (eg. kerbing, drainage improvements, patching, widening, strengthening and vertical realignments) will require to be carried out and completed prior to commencement of any works on-site by the applicant under section 56 of the Roads (Scotland) Act 1984. Alterations to any part of the public road would require detailed drawings to be submitted by the applicant for approval under section 56 of the Roads (Scotland) Act 1984. All work must be carried out to the Specification for Highway Works by an approved contractor at the applicant's expense prior to the delivery of any abnormal loads to the site.
- (c) As it is difficult to accurately assess how an existing road will perform under concentrated HGV loading conditions particularly where poor ground conditions exist, even when strengthened and, to allow for localised deterioration, a regime of ongoing maintenance to ensure safe passage on the road by the public during the construction period must be agreed between the applicant and the Roads Authority prior to commencement of any work on site.
- (d) There will also be an obligation on the developer to ensure that the A70 is to be reinstated to its former condition if requested by EAC. This may be applied on completion of abnormal load deliveries or once the site is operational.
- (e) Any resultant damage to any of the road structures due to the applicant's construction traffic/abnormal loads will require to be repaired at the applicant's expense.

Other Issues

- (f) Location, visibilities and standard of construction of any additional accesses from the public road system to the site will require to be agreed with the Roads and Transportation Service and constructed prior to commencement of any work on the site in the interests of road safety.
- (g) All routing of construction traffic has to be agreed in advance with the Roads Service prior to construction work commencing on-site.

- (h) Written permission must be sought for any re-location of existing street furniture (barriers, road signs, bollards etc) required as a result of the proposal. Any work carried out would be at the applicant's expense.
- (i) A Transportation Protocol for construction traffic must be signed between the applicant and the Council, which would include agreements on routing, timing of deliveries, marking of vehicles, driver behaviour, wheel washes at site accesses etc. with the applicant being required to record any breaches of the Protocol and notifying the Council of all breaches. Further discussions will require to take place at an early stage between the applicant and the Council's Roads Authority, to finalise and agree the details of the road and structural works required on the routes to the site should the development go ahead.

1.31 A wheel and chassis wash facility which operates on a closed cycle shall be installed at a location(s) determined by the Planning Authority and shall be operated throughout the construction period. The public roads adjacent to site accesses shall be kept free from mud, dirt, stones and other deleterious material arising from construction activities (utilising mechanical brushes where appropriate).

Protection of Amenity

Construction Noise

1.32 Construction work on the site, save for the erection of turbines, shall be confined to the hours of 0800 – 1900 Mondays to Fridays and 0800 – 1300 on Saturdays with no works on Sundays or on Public Holidays unless otherwise agreed by the Planning Authority. The receipt of any materials or equipment other than turbine blades, nacelles and towers, shall not take place except during the hours of 0800 – 1900 hours Mondays to Fridays unless otherwise agreed by the Planning Authority (on a minimum five working days notice of the proposed occurrence of the proposed event).

1.33 All plant and machinery should be operated in accordance with British Standard BS 5228 "Noise Vibration Control on Construction and Open Sites (1997)".

1.34 No fixed or mobile plant used within the site during the construction period shall incorporate bleeping type warning devices that are audible at any noise sensitive receptor. Details of alternative warning devices shall be submitted to and approved in writing by the Council as Planning Authority prior to development starting on site. Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the site. Save for the purposes of maintenance, no machinery shall be operated with the covers open or removed.

1.35 The impact of vibration shall comply with current planning consent and the levels within relevant British Standards and Planning Advice Notes. The applicant/developer shall adopt at all times good blasting practice and, as far as is reasonably practicable, to not carry out blasting operations in adverse weather. Blasting hours of operation shall be in agreement with the Planning Authority and blasting shall be controlled such that the maximum peak particle velocity in any plane does not exceed 6mm per second, at all sensitive receptors.

Operational Noise

1.36 At the reasonable request of the Planning Authority, following a complaint to the Planning Authority from the occupier of any dwelling relating to noise emissions from the Wind Turbines, the Developer will demonstrate (in accordance with methodology set out in The Assessment and rating of Noise from Wind Farms (ETSU-R-97) that, at the dwelling in question, the noise levels experienced as a result of the Wind Turbines, do not exceed:

- (a) During Night Hours, the greater of the Night Hours LA90 10min Background Noise Level plus 5 dB(A) or 43 dB LA90 10min at Wind Speeds not exceeding 12 metres per second;

and at all other times:

- (b) The greater of the Quiet Waking Hours LA90 10min Background Noise Level plus 5 dB(A) or 40 dB LA90 10min at Wind Speeds not exceeding 12 metres per second;

1.37 If the tonal noise emitted by the development exceeds the threshold of audibility by 6.5dB or more, then the acceptable noise specified in the above shall be reduced by 5dB, always providing that the definition of audibility for the purposes of this condition shall be as described in 'The Assessment and rating of Noise from Wind Farms (ETSU-R-97).

Ground Contamination

1.38 Prior to commencement of any works on site:

- (a) a comprehensive site investigation shall be carried out to the appropriate Phase level, and be submitted to and approved in writing by the Planning Authority. The investigation shall be completed in accordance with the advice given in the following:
- Planning Advice Note 33 (2000) and Part IIA of the Environmental Protection Act 1990 (as inserted by section 57 of the Environment Act 1995)
 - Contaminated Land Report 11 - 'Model Procedures for the Management of Land Contamination (CLR 11) - issued by DEFRA and the Environment Agency
 - BS 10175:2001 - British Standards institution 'The Investigation of Potentially Contaminated Sites - Code of Practice'.
- (b) If the Phase 1 investigation indicates any potential pollution linkages, a Conceptual Site Model must be formulated and these linkages must be subjected to risk assessment. If a Phase 2 investigation is required, then a risk assessment of all relevant pollution linkages using site specific assessment criteria will require to be submitted.
- (c) If the risk assessment identifies any unacceptable risks as defined under Part IIA of the Environmental Protection Act, a detailed remediation strategy will be submitted to and approved in writing by the Council as Planning Authority. No works other than investigative works shall be carried out on site prior to receipt of the Planning Authority's written approval of the remediation plan.

Community Benefit (Section 75 Agreement)

1.39 The developer shall provide community benefit contributions, in so far as the development relates to East Ayrshire, in accordance with the provisions of Policy CS15 of the adopted East Ayrshire Local Plan 2010, Contributions shall 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.

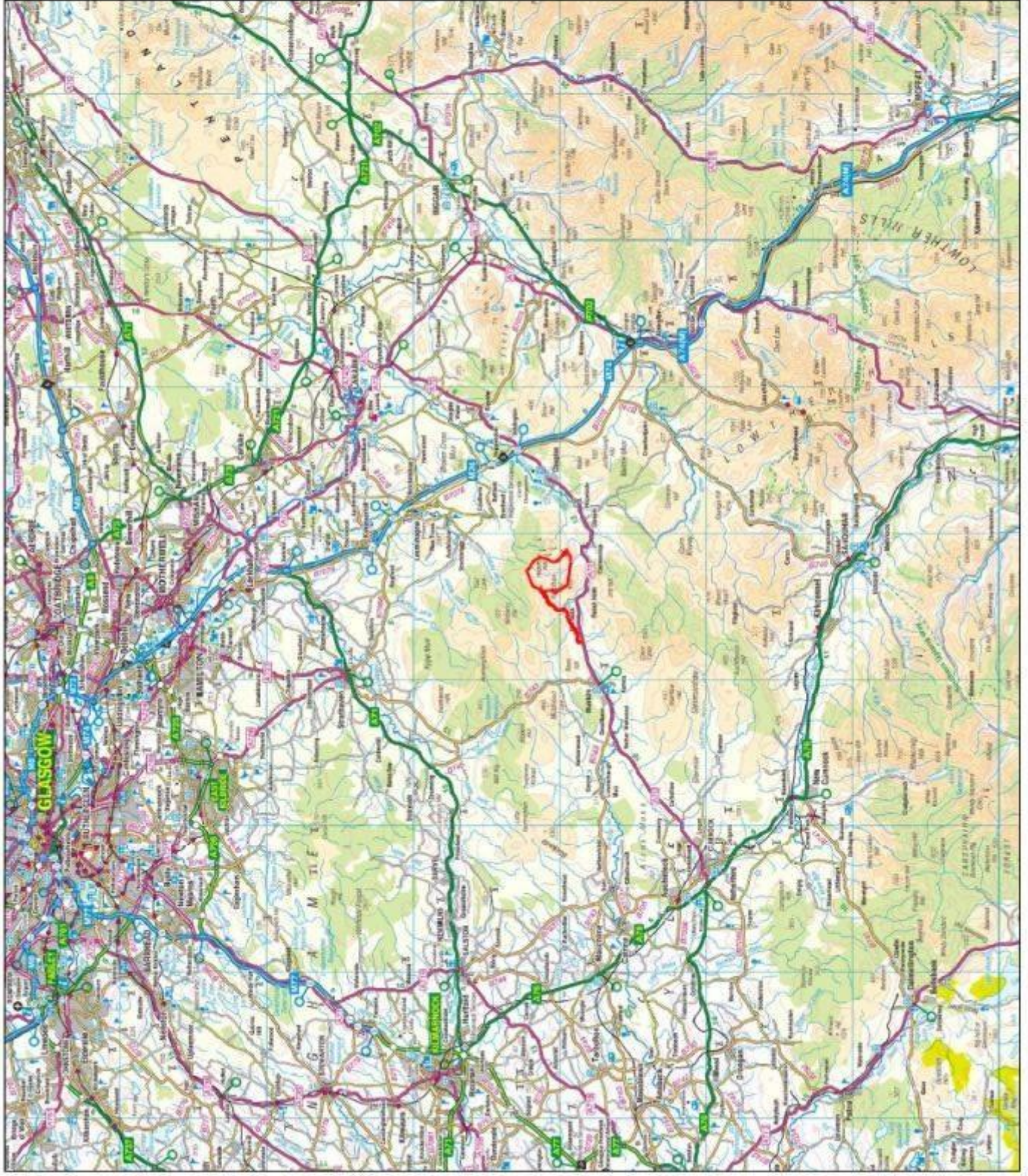


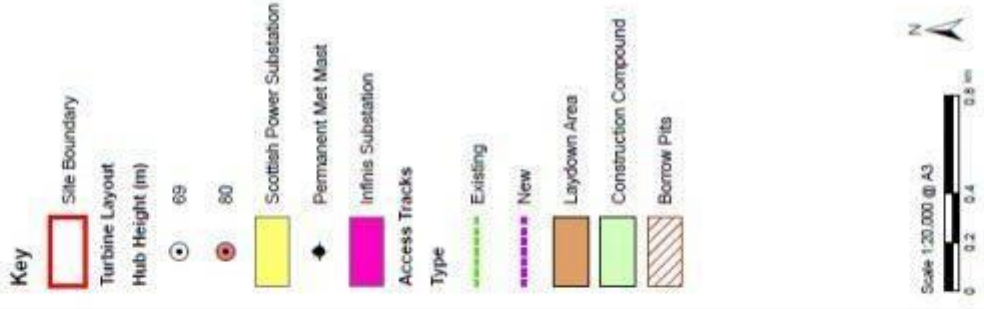
Key  Site Location



Site Location
Figure 1

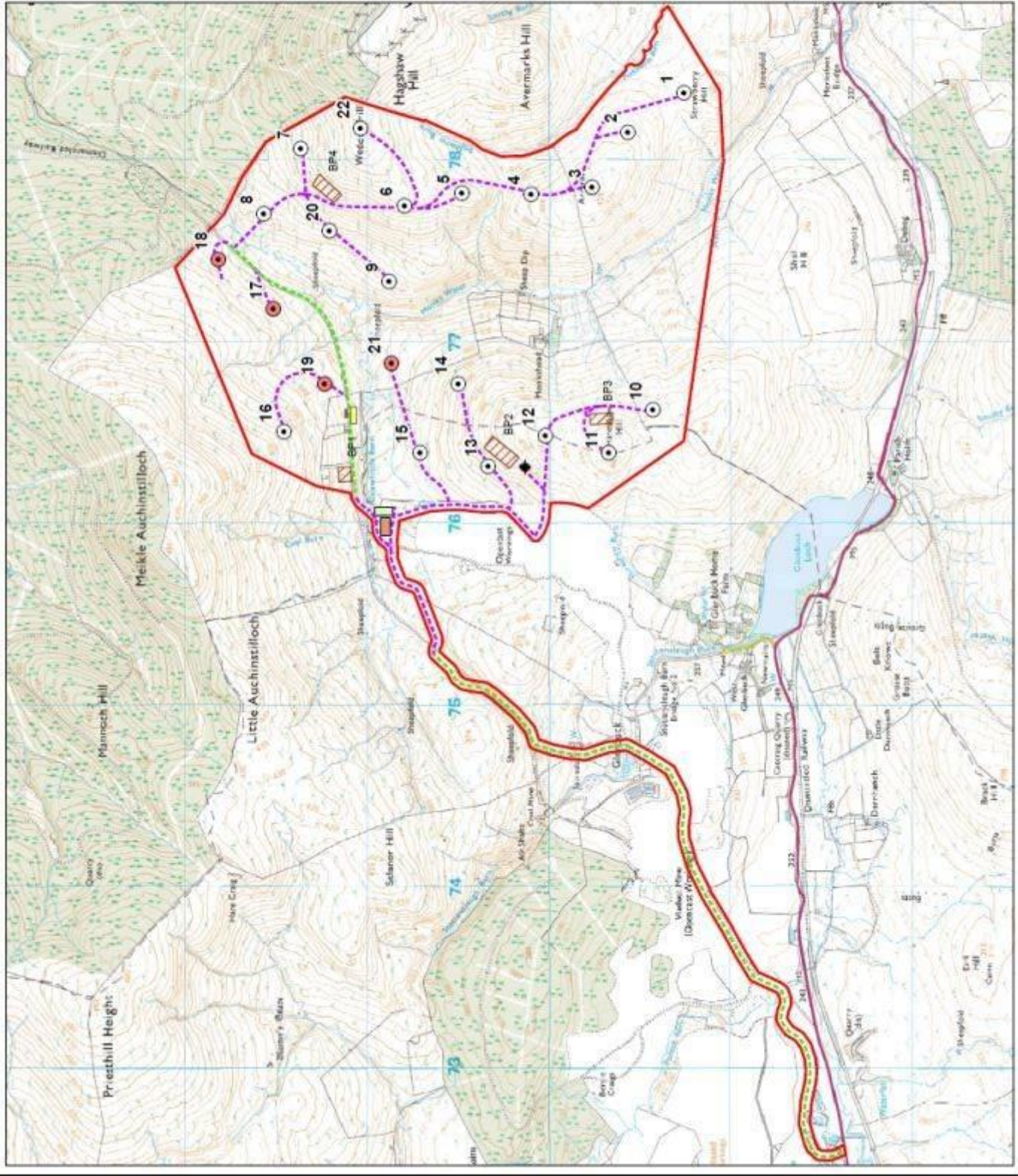
**Galawhistle Wind Farm
Non-Technical Summary**





Site Boundary and Layout
Figure 2

Galawhistle Wind Farm
Non-Technical Summary



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