

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 08 FEBRUARY 2006

PROPOSED ERECTION OF 95 WIND TURBINES AND ASSOCIATED WORKS COMPRISING PERMANENT MONITORING MASTS, BORROW PITS, TEMPORARY SITE COMPOUNDS, CONCRETE BATCHING PLANT, ELECTRICAL SUB-STATIONS, FORMATION OF INTERNAL ACCESS ROADS AND NEW SITE ACCESS, UPGRADING OF EXISTING ROADS AND CONSTRUCTION OF CONTROL BUILDING AT KYLE FOREST, NEAR DALMELLINGTON

APPLICATION BY AMEC PROJECT INVESTMENTS LIMITED

Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for the consideration of the Development Services 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 Kyle Forest, near Dalmellington and for the Committee to take a formal view on the proposed development.

2. BACKGROUND INFORMATION

2.1 The Scottish Ministers are responsible, under Section 36 of the Electricity Act 1989, for the authorisation of any new electricity generation scheme with a generation capacity in excess of 50 Megawatts (MW). As the current proposal for the Kyle Wind Farm project has a maximum installed capacity of 285 MW, East Ayrshire Council has been formally consulted by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989. It should be noted that part of the Kyle project application site falls within the administrative area of Dumfries and Galloway Council and that Council has also been formally consulted in similar terms insofar as the development relates to that authority.

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 Executive, Enterprise and Life Long Learning Department (Consents and Emergency Planning Unit) 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 the objection is made.

2.3 The Section 36 application was lodged with the Scottish Ministers on 29 October 2004 together with a comprehensive Environmental Statement as required under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000. Under this original application, the Kyle project promoted a development of 100 turbines, 94 of which were to be located within East Ayrshire and 6 within Dumfries and Galloway. Following consultations carried out and representations received, the Kyle project was amended.

2.4 On 28 June 2005, the applicant lodged an addendum to the Environmental Statement with the Scottish Ministers which made a number of amendments to the Kyle project but primarily reducing the scheme to 95 turbines, 88 of which lie within East Ayrshire and 7 in Dumfries and Galloway. The amendments were introduced largely to address visual impacts on the candidate Historic Garden and Designed Landscape at Craigengillan House and Estate near Dalmellington. It is on this amended scheme that the Council now requires to take a formal view in so far as it relates to East Ayrshire.

2.5 Should the Scottish Ministers be disposed to grant a Section 36 consent for the Kyle 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 proposed Kyle Wind Farm lies approximately 1.5 km to the east of Dalmellington and is centred on Kyle Forest which is managed by the Forestry Commission on behalf of the Scottish Ministers. The southern part of the Kyle Forest is owned by a number of private landowners and is managed separately. The greater part of the development site lies within East Ayrshire but a portion of the site extends southward into Dumfries and Galloway. The site lies entirely to the east of the A713 Ayr – Carsphairn Road. The site extends to around 8000 hectares albeit that the proposed physical development on site will be significantly less than this. The site is bisected by the B741 New Cumnock - Dalmellington Road that essentially divides the development site into two management units, referred to as North Kyle and South Kyle. The administrative boundary between East Ayrshire and Dumfries and Galloway runs through the South Kyle part of the development site.

3.2 The application site extends in the north from a point 3.2 km east of Rankinston to Brownhill Rig in Dumfries and Galloway to the south and from the Muck Water in Dalmellington in the west to Hillend Hill in the east. The northern and southern parts of the Kyle application site differ both in topography and habitats. Although both are dominated by the coniferous forest, the unplanted ridge tops of South Kyle are far steeper than the more broad-topped ridges of North Kyle.

3.3 In land use terms, the Kyle application site comprises Sitka spruce coniferous forest, including some areas of recent felling and re-stocking, a fringe of open, rough grassland, an area of partially afforested moorland and blanket bog, and opencast coal mining associated with the Chalmerston North and Pennyvenie OCCS.

3.4 The application site lies outside any internationally or nationally designated area but part of the development area falls within the Martyrs Moss Provisional Wildlife Site.

3.5 **Proposed Development (As Amended):** The Kyle Wind Farm project promotes the construction of 95 horizontal axis wind turbines, each with a 3MW maximum rated generating capacity. The applicant indicates that although it is too early to make a final choice of manufacturer, the turbines proposed would be of proven design to take advantage of high reliability, excellent performance, low running costs and maximum energy yields. The turbines would consist of 80 metres high steel tubular towers containing an internal ladder. The rotors, some 90 metres in diameter, would consist of three fibreglass blades attached via the hub and main shaft to the nacelle containing the generator, gearbox and other operating equipment.

3.6 Typically the turbines 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 safety reasons when wind speeds exceed 25 metres per second.

3.7 The turbines would be finished in a light matt grey in colour and have a maximum height from base to blade tip of 125 metres. Each turbine will be set on a square reinforced concrete foundation measuring 22m x 22m with a foundation depth of 1.5 metres, this being entirely beneath the ground. Wind turbine location in North Kyle may be affected by shallow mine workings and the extent of this will require to be established and if necessary, would be treated by well-established ground stabilisation techniques. In addition to the foundations, each turbine will require a hardstanding area of approximately 40 metres by 20 metres to facilitate the operation of cranes and delivery vehicles involved in the construction of the turbines.

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

(i) Site Access - there are five access points to the site, all located within East Ayrshire, these being as follows:-

- Off the A713 just north of Polnaskie Bridge by upgrading of an existing access for delivery of wind turbine components and general deliveries;
- A new access point created in the North Kyle area from the B730 Drongan – Patna road opposite the Broomhill Opencast site access for delivery of wind turbine components and general deliveries;
- Off the north side of the B741 New Cumnock to Dalmellington road by upgrading the existing access road leading to the former Benbain opencast site for the movement of wind turbines between North Kyle and South Kyle;
- Off the south side of the B741 New Cumnock to Dalmellington road by upgrading the existing forest access road leading near Meikle Hill for the movement of wind turbines and general deliveries; and
- Off the B7046 Skares to Sinclairston road by upgrading the existing forest access road through the former Piperhill opencast site for general deliveries.

(ii) Internal Roads – for the construction of the turbines and subsequent servicing requirements approximately 59 km (36.7 miles) of new site roads would be required together with 49 km (30.4 miles) of upgraded existing site roads. Of this, some 25.8 km (16 miles) would be a spine road running through the site and with a running width of 7metres. The remaining site roads would have a width of 5 metres. All roads would be constructed or upgraded using locally sourced stone. The site roads would cross a number of watercourses of varying sizes and this would require construction of small circular culverts, medium to large box culverts or bridges.

(iii) Borrow Pits – large quantities of stone would be required for the construction of roads, hardstandings, foundations and compounds. It is estimated that some 1.25 million cubic metres of rock aggregate would be required for the project. In order to achieve this requirement 8 borrow pits have been identified within the application site. Two are located in the North Kyle area and six in the South Kyle area. It is anticipated that these borrow pits have sufficient capacity to supply the estimated quantity of rock aggregate required. Their locations have been chosen so as to avoid all environmental constraints, minimise visual impact and use the best available stone on site. It is stated that there may also be a requirement to source some aggregate off-site. All proposed borrow pits are located within East Ayrshire.

(iv) Concrete Batching Plant – one batching plant is proposed as a 50m by 60m compound located in South Kyle to the west of Meikle Hill. The batching plant would consist of a mobile concrete batching unit, cement silos, water treatment facility and site offices, all contained within a bunded compound. The option to use ready mixed concrete sourced locally may also be exercised in the Kyle project. Water abstraction is proposed from the Linn Water with the requirements of the batching plant being some 130,000 litres per day.

(v) Temporary Site Compounds – two compounds are proposed, two in North Kyle and two in South Kyle and measuring 50m x 50m. These compounds will accommodate site offices and storage for plant and materials. The compounds would be constructed by removing topsoil and laying stone on a suitable substrate. One of the compound in South Kyle lies within Dumfries and Galloway. Following completion of construction operations, the compound areas would be re-instated or used to accommodate more permanent infrastructure such as substations.

(vi) Temporary Storage Areas – two areas of 10,000m² are to be located within the site boundary for storage of turbines prior to erection. The area in North Kyle is to be reinstated but the storage area in South Kyle is to be retained to house more permanent infrastructure including a substation. The South Kyle storage area lies within Dumfries and Galloway.

(vii) Substations and Grid Connection - four electrical substations are proposed consisting of a compound, measuring 50m x 60m, laid on a stone surface and fenced off with a secure steel palisade fence. The substations would consist of two transformers and all associated outdoor switchgear and a small building housing control and monitoring equipment with limited office accommodation. One of the substations is located within Dumfries and Galloway. The substations will be connected to turbines by underground cabling laid alongside or within the road construction. The route of underground cabling would be delineated by marker posts. The grid connection is likely to be by means of overhead power lines and taken to a potential connection point at Coylton Substation. Scottish Power will require to make a separate application under Section 37 of the Electricity Act 1989 to the Scottish Ministers and this is likely to be the subject of further environmental impact assessment.

(viii) Control Building – A two storey building is proposed, to be located on the site of the temporary storage compound in South Kyle off the B741 road. The building would accommodate office space, mess facilities and a kitchen, a control room, a medical room, store rooms and a workshop. This will provide a base for the control, operation and maintenance activities throughout the life of the wind farm.

(ix) Wind Monitoring Masts: Two permanent and two temporary masts are proposed consisting of free standing mast some 80 metres high. The temporary

masts will be used to monitor wind at two proposed turbine locations prior to the construction of these turbines.

3.9 As part of the wind farm development, deforestation of part of the Kyle and Brownhill forests will be required. The original Kyle scheme would have resulted in 1050 hectares of deforestation but as a result of concerns raised regarding visual and habitat impacts, this has been reduced to approximately 100 hectares to allow the construction, operation and decommissioning of the wind turbines. A revised fell plan has been provided and an enhanced Short Rotational Forestry regime promoted to ensure that long term landscape and visual impacts from deforestation do not occur. As a result of these amendments, there is no proposed deforestation as a consequence of the wind farm development with the exception of the 100 metre diameter enabling zone around each wind turbine and the construction of access tracks.

3.10 The wind turbine components would be transported from the nearest port (likely to be Ayr) and moved by specially designed trucks to one of the temporary component storage areas or directly to the wind turbine under construction. Vehicle movements would be at set times of the day to minimise disruption on public roads. There would be between 8 and 11 truck loads per wind turbine with one or two turbines delivered per week during the construction phase. Construction would take place over two years, with construction taking place Monday to Saturday during each week.

3.11 The lifespan of the Kyle wind farm is anticipated to be 25 years and at the end of this timescale there are two options available, either to re-power the site with new turbines or to remove the wind turbines and re-instate the site.

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

3.13 The application for the Kyle development would contribute to meeting the Renewables Obligation Order 2002 that sets a target for Scotland of 10.4% of electricity supplied to consumers from renewable sources by 2010/11. The energy generated by the proposed Kyle Wind Farm would significantly contribute to these targets both in terms of renewable energy generation and in the reduction of greenhouse gas emissions. The proposed wind farm, with an installed capacity of 285 MW would produce electricity sufficient for the domestic needs of 160,000 households and contribute one sixth of the Scottish Executive's target for 2010.

3.14 In terms of socio-economic benefit, the applicant indicates that the £180 million construction programme will generate output worth an estimated £15 million in the East Ayrshire and Dumfries and Galloway economies. The

manufacturing and construction activity will create or support around 23 full time permanent equivalent jobs within East Ayrshire and Dumfries and Galloway from direct, indirect and induced effects. The employment estimates are based on permanent equivalents rather than job numbers. If this is translated into actual jobs over the two year construction period, it is estimated that this would be equivalent to 110 people working locally either directly, indirectly or via induced effects.

3.15 The applicant also states that further benefit may accrue from the establishment of a Community Fund with contributions based on a sum of £1000 per MW per year resulting in £285,000 per annum directed towards the fund.

4. CONSULTATIONS AND ISSUES RAISED

4.1 Consultations have been carried out by this Division and by the Scottish Executive, 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 Roads and Transportation Division has no objections in principle to the project but do have major concerns regarding the effect of the heavy volume of construction traffic involved in the project on the surrounding public road network. The vagueness of the submission in terms of the final traffic volumes generated by the proposal failed to address the effect of the proposal on the roads to and from the site during construction of the project and make it very difficult to be prescriptive as to the exact mitigating measures required to ensure the future structural integrity of the affected public roads. The bulk of the construction traffic and abnormal load movements affecting East Ayrshire would appear to be generated to and from the site via the A713 Ayr to Castle Douglas Road and A70 Ayr to Edinburgh Road and then via minor roads to the site access points.

Noted.

The main routes should be structurally capable of accommodating the generated construction traffic but due to the significant increase in HGV traffic the Council would require the developer to contribute to any extraordinary maintenance costs incurred on these routes during the construction phase. Works will be required on the A713 to the geometry of the road for the delivery of the turbines and also to some bridges (particularly at Buchans Bridge, Kirn Bridge and Mossdale Bridge by Dalmellington). These works involve temporary parapet removal and replacement, approach horizontal re-alignments and approach and departure vertical re-alignments respectively which would require detailed drawings to be submitted by the applicant for approval under section 56 of the Roads (Scotland)

Act 1986 with all work being carried out to the Specification for Highway Works at the applicant's expense prior to the delivery of any abnormal loads to the site.

The recovery of extraordinary road maintenance and necessary road infrastructure improvements can be secured by means of a Section 75 Agreement should consent be granted for the proposed development.

The minor access roads identified between the strategic A70 and A713 routes and the site, namely the B730, B741 and B7046 have very low volumes of HGV traffic, therefore any HGV construction traffic on these roads will be a significant increase and as such, viewed as extraordinary traffic for these roads which were never designed to accommodate this type of traffic. A full structural assessment of these minor routes will be required to be undertaken by the applicant and agreed with East Ayrshire Council prior to commencing work on site. All identified necessary roadworks required (e.g. kerbing corners and road edges, drainage improvements, patching, widening and strengthening of the road network) 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 1986. As it is difficult to accurately assess how an existing road will perform under such HGV loading conditions, even when strengthened, and to allow for localised deterioration, a regime of ongoing maintenance over the construction period for these roads must be agreed between the applicant and the Roads Authority prior to commencement of any work on site. Locations, visibilities and standard of construction of all accesses from the public road system to the site will require to be agreed with the Roads Authority and constructed prior to commencement of any work on the site in the interests of road safety.

The recovery of extraordinary road maintenance and necessary road infrastructure improvements can be secured by means of a Section 75 Agreement should consent be granted for the proposed development.

Other works may be required to structures and geometry on the public road network to allow for the movement of abnormal loads. Assessments will require to be undertaken by the applicant of all known structures, pipes and culverts below affected public roads to confirm their ability to carry abnormal loads. Any resultant damage due to the applicant's construction traffic/abnormal loads will require to be repaired at the applicant's expense. All routing of construction traffic has to be agreed in advance with the Roads Division prior to construction work commencing on-site. Any re-location of existing street furniture (street lighting columns, road signs, bollards etc) required as a result of the proposal would be at the applicant's expense.

Appropriate structural assessments and routing of construction traffic can be secured by the imposition of conditions in any consent granted for the proposed development.

Contact must be made with East Ayrshire Council Structures Section based at Holmquarry House Kilmarnock (tel. 01563 555755) regarding suitability of any existing structures for abnormal loads on the A70/A713/B741/B730/B7046 and U728 roads, all possible access routes to the site within East Ayrshire. A Transportation Protocol for construction traffic must be signed between the applicant and the Council which would include agreements on routing, timing, 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.

The agreement of the developer to a Transportation Protocol can be secured by means of a Section 75 Agreement in any consent granted for the proposed development

Further discussions would require to take place between the applicant and the Council as Roads Authority to firm up the details of the roadworks required once the applicant has identified exactly which routes will be utilised and traffic types and volumes using these routes to and from the site.

Noted.

4.3 Scottish Water indicates that although there are no public water supply abstractions locally that may be impacted upon by the development in general terms, it is happy that the reduction in the number of turbines and the amount of deforestation will reduce the impact on the water environment.

Noted.

4.4 The Scottish Environment Protection Agency has indicated that the Environmental Impact Assessment (EIA) shows that the project is a major civil works with the construction of turbine foundations, access roads, buildings, a concrete batching plant and storage/compound areas over a period of two years. Deforestation of areas will also occur. The construction phase is clearly the most sensitive time period with the increased risk of impact to surface water courses and the shallow hydrology. It is imperative that the applicant ensures that all mitigation measures proposed to be protective of surface water and shallow groundwater are implemented. Both the shallow surface hydrogeology and surface hydrology will be linked, therefore, the protection of both the quality and quantity of these resources should be paramount.

It should be noted that the area of proposed deforestation has now been significantly reduced as a result of the amended proposal. The

implementation in full of the mitigation measures proposed for the protection of water resources within the development site should minimise any potential adverse impacts.

The Environmental Statement acknowledges the need to minimise impact to the environment through design criteria for roads and hardstanding areas. Micro-siting of component parts of the wind farm so as to lessen any impacts to the environment is to be commended as is the timing of construction works. The EIA proposes a conceptual design of the site drainage system to ensure minimal impact on site hydrology; however it is essential that this is agreed with SEPA prior to the commencement of any construction works. Various techniques have been proposed to prevent pollution of watercourses and it is essential that a programme is established to monitor the effectiveness of these measures.

A condition can be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of SEPA.

River crossings are to be achieved by means of small culverts, medium culvers and bridges. SEPA would re-iterate its policy against unnecessary culverting of watercourses. Where a culvert is essential it should be designed and installed in accordance with CIRIA Report 168 "Culvert Design Guide for Hydraulic Performance and Environmental /Aesthetic Considerations". The Water Framework Directive requires consideration of any aspect of river habitats, channel structure and flow regimes that impact upon the biology of the water. SEPA would therefore request that the applicant carefully considers proposed "protection measures" to water courses such as gabion baskets and advise that alternative measures are considered.

A condition can be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of SEPA.

The ES proposes designated areas for the storage of potentially polluting substances and high risk activities. SEPA welcomes this approach and the references to relevant Pollution Prevention Guidance Notes. Septic tanks and soakaways should be designed and constructed in accordance with the current code of practice BS6297:1983.

Noted.

It is proposed to produce concrete on site by means of a mobile concrete batching plant. This would entail on-site aggregate and additive storage, plant maintenance, surface water drainage and the abstraction of water from the Linn Water. Given that ready mix concrete can be sourced externally, 20 minutes away, SEPA would question whether the one third reduction in vehicle

movements outweighs environmental issues created by an on-site batching process.

It should be noted that some of the public roads that would be used in sourcing concrete externally from the application site are minor roads passing through towns and villages, some of which are already heavily trafficked by opencast coal lorries. Taken with the timber lorries that would additionally be using public roads during the construction phase, it is considered that an on-site batching plant would significantly reduce impact on roads and communities resulting from additional heavy goods vehicle movements to and from the application site.

Given the hydraulic connection between surface water courses and shallow groundwater, it is essential that surface water drainage and dewatering of borrow pits is carefully managed to avoid pollution. Again SEPA would request detailed proposals for the management of drainage during the excavation process.

A condition can be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of SEPA.

The ES proposes a management plan for a safe and acceptable disposal of peat and SEPA would request this for all waste arising from the development. The developer should be aware of the Waste Management Licensing Regulations 1994 as amended. It is understood that much of the spoil generated will be re-used/re-cycled on site and this practice along with maximising the use of secondary aggregates is to be encouraged

A condition can be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of SEPA.

Given the current lack of data available relating to the quality and flow of relevant rivers and streams, it is essential that baseline monitoring of watercourses is undertaken prior to any works commencing. As previously stated it is essential that monitoring continues when work begins so as to rapidly highlight any pollution problems as the development proceeds. The Council has provided information regarding abstractions and private water supplies in the area and the applicant should consider protective/ mitigation measures in relation to these water resources.

A condition can be attached to any consent granted for the proposed development to ensure the provision of the requested baseline information and on-going monitoring and to ensure adequate

protection of existing abstractions and private water supplies that may be affected by the proposed development.

The mitigation / management plans discussed in the EIA are of a general nature and it is essential that full site specific method statements on construction methodology, site drainage and work practice are produced i.e. Construction Method Statements. SEPA would also state that the environmental mitigation measures and techniques outlined in SEPA's Pollution Prevention Guidelines should be incorporated into the CMS. The CMS should be agreed through discussion with SEPA and it is imperative that the CMS is seen as a "live document" and is used to advise and educate all site operatives working at the wind farm site.

Outline Construction Method Statements have been submitted as part of the Addendum to the ES. Nonetheless a condition can be attached to any consent granted for the proposed development to ensure the provision of the required site specific Construction Method Statements, in consultation with SEPA.

SEPA's experience in these types of projects is that the combination of soil stripping, road construction and inclement weather can rapidly turn greenfield sites into muddy quagmires. SEPA has a duty to protect the environment and will use its statutory powers in accordance with the terms of the Control of Pollution Act 1974 (as amended) to enforce those responsibilities, if in SEPA's opinion, insufficient measures have been taken prior, during or post construction phase to ensure that the risk of pollution to controlled waters, inclusive of groundwater, has been satisfactorily addressed.

Noted.

In respect of the Addendum to the ES and the amendments to the proposed layout, SEPA would concur with the conclusion of the Addendum that the revised layout proposed for the site could potentially reduce the environmental impact of the development provided the developer ensures that the comprehensive range of mitigation measures as proposed in the construction method statements are fully enacted at this site.

Noted.

4.5 JMP Consulting (on behalf of the Scottish Executive Trunk Road Network management Division) states that the proposed development represents intensification in the use of this site and will increase traffic movements on the trunk road network. It is considered that the impact on the operation of nearby highways will be of an acceptable standard. The percentage increases in traffic volume associated with the development is such that the proposal is likely to cause minimal environmental impact on the trunk road network. Due to the

potential dimensions of many of the loads, authorisation from the Highways Agency may be required and it is advisable that the Bridges Branch are consulted as to the feasibility of the transportation of these items to the site.

Noted.

4.6 The Health and Safety Executive has no comments to make on the Environmental Statement.

Noted.

4.7 The Civil Aviation Authority (Directorate of Air Space Policy) states that the Addendum appears to address previous issues highlighted. As previously observed, Glasgow Prestwick International Airport (GPIA) had expressed some concerns relating to the operational impact of this development as originally proposed upon the operation of the airport. CIA noted that the developer had been in liaison with GPIA for some time but that there remained outstanding issues that required resolution to the mutual satisfaction of both parties. The amended proposal appears to have resolved such issues.

See the consultation response received from Glasgow Prestwick International Airport noted below.

4.8 Glasgow Prestwick Airport (GPA) indicates in its most recent correspondence that it presently maintains its objection to the Kyle Wind Farm development. However, GPA can envisage circumstances in which it would withdraw its objection. As indicated previously, GPA is not against the development of wind farms per se but there are places where wind energy developments and air operations cannot exist without detriment to the provision of a safe and effective air traffic service and without sacrificing the current and future growth opportunities for GPA.

Noted.

GPA would be prepared to withdraw its objection only if the following conditions were met:

1. A technical solution to the problem of radar clutter caused by the Kyle wind turbines is developed in consultation with GPA;
2. The proposed technical solution must preserve GPA's current and future operational efficiency, safety requirements and commercial interests;
3. The proposed technical solution must be approved by the CAA;
4. No turbines are erected until GPA (in its absolute discretion) approves the proposed technical solution and that solution is implemented to GPA's satisfaction;

5. The proposed technical solution is developed and implemented at the expense of AMEC Project Investments Limited;
6. GPA and AMEC Project Investments Limited enter into a binding legal agreement and any necessary supplementary agreements which enshrine the developers obligations to GPA;
7. A negative suspensive provision to the effect of points 1-5 above is inserted as a condition of any Section 36 Consent which the Scottish Ministers may issue in connection with the proposed Kyle Wind Farm; and
8. The Section 75 Agreement to be entered into between East Ayrshire Council and AMEC Project Investments Limited prior to the issue of any such Section 36 Consent reflects as appropriate the effects of points 1-5 above.

A negative suspensive condition could be attached to any consent granted for the proposed development to ensure that no works commence on site until Glasgow Prestwick Airport is fully satisfied that the technical issues with respect to impact on radar are fully resolved without any adverse effect either in terms of its provision of a safe and effective air traffic service and without sacrificing the current and future growth opportunities for the airport which is a significant economic generator for the Ayrshire economy. Any Section 36 Consent for the development should be withheld until appropriate agreements, under Section 75 of the Town and Country Planning Act 1997, are agreed and signed by the relevant signatories to the Agreement.

GPA states that it is prepared to work with the developer to settle bi-partite agreements but to date have only had preliminary discussions on the terms of such agreements, but it would endeavour to reach agreement with the developer in the first quarter of 2006. As a final point and by way of comment on some of the arguments put forward by the developer as to the likely time horizon for the development of an acceptable technical solution to the air traffic control radar clutter issues raised by the Kyle Wind Farm development, while GPA appreciates that progress has been made in addressing the issues surrounding the co-existence of wind farms and airports, it does not believe that the technical and operational solutions proposed in connection with the Whitelee development near BAA Glasgow and the Blacklaw development near BAA Edinburgh are applicable to GPA and the proposed Kyle Wind Farm.

Noted.

4.9 National Air Traffic Services (En-Route) Plc (NERL) states that in recent weeks it has been working with the developer to reach an acceptable compromise to allow its current objection to the development to be lifted. Although at the current time NERL wishes the objection to remain in place, both parties are confident that a Section 75 Agreement can be agreed in the near

future; this will put in place the legal framework for a process whereby the developer will provide evidence that a mitigation strategy, which the developer will implement, would successfully limit the impact of the Kyle Wind Farm on NERL's air traffic control operation to an acceptable level. Once the Section 75 Agreement has been agreed by all parties, NERL will be in a position to withdraw its objection. NERL requests that until such time as NERL can guarantee that the risks to the safe and efficient control of air traffic have been addressed and NERL has removed its objection accordingly, planning approval for the wind farm is withheld.

A negative suspensive condition could be attached to any consent granted for the proposed development to ensure that no works commence on site until NERL is fully satisfied that the technical issues with respect to impact on air traffic control are fully resolved. Any Section 36 Consent for the development should be withheld until appropriate agreements, under Section 75 of the Town and Country Planning Act 1997, are agreed and signed by the relevant signatories to the Agreement.

4.10 The Ayrshire Rivers Trust would like to see a pre and post electro-fishing survey commissioned to establish the nature of fish populations within the works area. This data is vital to enable an assessment of the impact of the proposed works on the fish population. The applicant has supplied some baseline data on water quality from a number of sites in the proposed works area. The baseline data included physio-chemical parameters only and no baseline biological invertebrate sampling was carried out. As aquatic invertebrate population analysis is a standard technique used to monitor long-term changes in water quality, the Trust is surprised that no such data was collected and supplied by the applicant. The Trust would like to see a pre and post works biological survey of all significant watercourses in the development area so that the impact of the work can be established. It is widely recognised that sedimentation has a chronic effect on fish and invertebrate populations. With advances in technology, the Trust would like the applicant to investigate the feasibility of installing constant monitoring data loggers to monitor suspended solids in the main watercourses as they exit the works site. The data produced by these loggers would provide valuable information of the works on a 24 hour basis. The Trust feels that the normal inspection regime may not be robust enough to assess the extent of sedimentation issues especially given the isolated location of the proposed works.

Conditions could be attached to any consent grant to address the issues raised by the ART.

The ART notes that the applicant is proposing that all concrete required on site is produced at a single, on-site batching plant. The Trust would prefer that concrete be produced from one of the nearby suppliers rather than being batched on site,

as the impact of the proposed abstraction level on the ecology of the burn downstream is potentially very high. The site selected is on the Linn Water, which is a tributary of the Cumnock Water, then the Muck Water before joining the River Doon. These waters are extremely important salmonids and juvenile production sites. The proposed water abstraction from the Linn Water has the potential to impact on water flows and juvenile salmonids production all the way down the Cumnock Water.

It should be noted that some of the public roads that would be used in sourcing concrete externally from the application site are minor roads passing through towns and villages, some of which are already heavily trafficked by opencast coal lorries. Taken with the timber lorries that would additionally be using public roads during the construction phase, it is considered that an on-site batching plant would significantly reduce impact on roads and communities resulting from additional heavy goods vehicle movements to and from the application site.

The concern of the ART is however valid and appropriate monitoring measures should be secured by condition to ensure that flow within the Linn Water is not adversely impacted upon during periods of dry weather, including the exclusive sourcing of concrete externally at these times.

The ES mentions that the choice of river crossing construction type would be determined by environmental factors including fisheries. Road crossings and associated culverts and bridges are notorious for causing problems to migratory fish. The Trust would recommend that an electro-fishing survey is carried out at the site of each crossing to establish if migratory fish are present. If the watercourse has a population of migratory fish, the Trust would recommend box culverts, with a re-instated river bed, or bridges be used rather than circular culverts. Culverts often present problems to fish migration due to the unnatural substrate and high speed water flow.

A condition can be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of both SEPA and the ART in respect of river crossings.

4.11 The Association of Salmon Fishery Boards raises similar concerns to those of the Ayrshire Rivers Trust about construction impacts particularly in relation to obstruction of upstream and downstream fish migration, disturbance to spawning beds, increased sedimentation risks, pollution incidents during construction and drainage issues. The ASFB indicates that construction contractors are often unaware of the potential for impacts 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 ASFB.

4.12 Architecture and Design Scotland (formerly the Royal Fine Art Commission for Scotland) has provided general guidance and comments based on national policy rather than providing specific comments on the Kyle development. A+DS does indicate that a professionally prepared Design Statement must be prepared in accordance with PAN68. This provides the information to assess whether the wind farm has been led by good design, economics or by other environmental and technical constraints. In the absence of a design statement it is not possible to understand why a particular site has been chosen or design approach adopted.

It is considered that the comprehensive Environmental Statement and its Addendum submitted in support of the proposed development has fully explained the definition of the current site layout and operational design.

4.13 West of Scotland Archaeology Service has raised a number of issues relating to impact on archaeological resources. In particular WOSAS does not agree that the impact on the former Knockgelderan farmstead site is negligible. It is considered that that micro-siting of the turbine proposed at this location can avoid the worst direct effects. It is recognised that the remains at the site appear to be largely modern and that the site is currently within afforestation, but the opportunity should be taken to make the site more visible and accessible, and this may require moving the position of the adjacent turbine. This would be particularly the case if archaeological evaluation should demonstrate that there are archaeological deposits of earlier periods present on site. Depending on detailed proposals for this area, rather more than an archaeological watching brief may be required during construction works. WOSAS would be pleased to be contacted further about proposed archaeological mitigation for this site. The ES states that a Written Scheme of Investigation, setting out the details of archaeological mitigation, will be prepared. This requires to be secured by a suitable condition if consent is granted by the Scottish Ministers.

A condition can be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of WOSAS.

WOSAS does not consider that in general, the proposed wind farm development raises such significant cultural heritage issues to suggest that the principle of its development should be refused. In respect of direct impacts on cultural heritage resources, this proposal is located within an area that is largely afforested and therefore impacts on the archaeological resource, both above and below ground, are much less than might otherwise be the case if this proposal was for an open upland area. The proposed mitigation strategy, secured by condition, should

adequately cover any matters arising from predicted direct impacts on the surviving archaeological resource within the afforested area.

Noted.

4.14 Dalmellington Community Council has provided a copy of an objection letter sent directly to the Scottish Minister. The letter states that in the past the community of Dalmellington has contributed much to the energy requirements of the wider community and has suffered the economic scars as a result. Over a number of years the community has suffered decline then stagnation both in terms of population and also in terms of economic prosperity. The Community Council and other agencies have tried to address this and the shoots of regeneration are now apparent. The proposed wind farm would be detrimental to the social, physical, environmental and economic well being of this community.

It is recognised that the community of Dalmellington and other communities surrounding the proposed wind farm development have contributed to the energy requirements of the wider population both in the past through deep mining and more recently through major opencast coal extraction in the Doon Valley. It is also recognised that considerable efforts are being made to encourage and promote regeneration of the community of Dalmellington.

The Community Council objects on the grounds that:

- The proposal is contrary to the Structure Plan;
- The proposal is contrary to the central principles and policies of the local plan;
- The local plan identifies tourism as the most likely foundation for sustainable economic regeneration of the area. This proposal would militate against this aspect of regeneration;

A full assessment of the proposed development against the provisions of the approved Ayrshire Joint Structure Plan 1999 and the adopted East Ayrshire Local Plan 2003 is given in section 6 of this report.

- The turbines would totally dominate the landscape. It is our belief that the photomontages produced by the applicant does not illustrate the impact and is misleading to the local population.

Notwithstanding the belief of the Community Council it is considered that the submitted information by way of visualisations and photomontages are representative of visual impact of the proposed wind farm development. This is not an issue that has raised concerns amongst statutory consultees. It is recognised however

that the scale of the project is large despite it being accommodated mainly within coniferous commercial plantation.

- Regeneration is underway and this development would have serious negative impact.

Information has been received by both the Planning Authority and the Scottish Ministers to the intimating that if the proposed wind farm is consented, then other regeneration projects proposed within the Dalmellington area will be jeopardised or abandoned.

- This is an area of natural beauty with much to offer in the way of wildlife and natural habitats. Dalmellington itself has within it a Conservation Area as well as buildings which are listed or of particular significance.

It is notable that statutory and non-statutory consultees, in so far as impact on the natural and built heritage, have not objected to the proposed development subject to the imposition of conditions or legal obligations. Indeed, insofar as wildlife and natural habitats are concerned, the proposed development, through the proposed Habitat Management Plan is likely to deliver positive long term benefits to the natural environment.

- The area is one which has been identified as a Social Inclusion Partnership area. Much work has been done and is ongoing in terms of addressing social exclusion.

Noted.

- The proposed development is contrary to the principle of Environmental and Social Justice as described by the First Minister on 18 February, 2003.

The Scottish Ministers will no doubt take this matter into consideration in coming to a decision on this Section 36 application.

4.15 New Cumnock Community Council has made a 20 page submission indicating in detail its objections to the proposed development. The full submission is available for inspection as a background paper to this report. The main points of objection are summarised as follows:

- Impact on tourism potential: the view that we in New Cumnock have of this area is that the scenery and assets that are present here are very valuable and can be developed for the future prosperity of this area. There is potential here to make this area a 'honey pot' for tourism that could be comparable with places such as Callender in the Trossachs or any places

in the Lake District or throughout the Southern Uplands such as Peebles. This however will not come about if the area continues to be plundered and rendered derelict.

Noted. See comments in section 6 of the report.

- The Regeneris Report within AMEC's proposal notes that the national Tourist Boards recognise that the establishment of wind farms has a detrimental effect on Tourism and if the cumulative effect of all the proposal is taken in to account it can be seen that this proposal is not conducive to the regeneration of this area. It would appear that it is recognised that the wind farm proposal is large enough to have a detrimental effect on tourism. Because the tourist industry is where long term regeneration lies for this area the effects of this proposal must be seen as having a negative impact on this area.

Noted.

- There are now proposals for over 300 wind turbines in the area between New Cumnock and Dalmellington in an area with an approximately 8 mile diameter. This has an immediate cumulative impact along with all the other activities and a wider implication that these wind farms will be seen over the whole of Ayrshire.

The concerns regarding cumulative impact are well founded given the existing development, those for which consent has been sought and those which are the subject of formal enquiries.

- We have at present 56 turbines within this ward and it is our view that is enough. The cumulative impact on the whole situation of over 300 of which this proposal is the first 100 would be intolerable. We have our share and whilst we understand and agree with the need for renewables we feel that the rest of the UK should have some of these in their back yard and not dump them in ours just because we are seen as being vulnerable and a soft touch by the Scottish Executive. The management of the AMEC themselves point out that they have been guided to put their proposal in this area by the relevant authorities.

The number of turbines within the New Cumnock ward is 17, not 56 as stated by the Community Council. Three of the Hare Hill wind farm turbines are located in Dumfries and Galloway as are all 30 turbines associated with the Windy Standard development. Nonetheless, it is considered that these development do impact on East Ayrshire in terms of landscape character and visual amenity.

- Targets for renewable energy have been set in Westminster and the Scottish Parliament are anxious to meet these targets and in Scotland there is an emphasis on meeting more than Scotland's requirements in this in that we are serving UK requirements. To this end there has been a plethora of applications and proposals for wind farms and these are tending to centre in certain areas of which this is one. There is a requirement to have around 2800 turbines by 2010 and if we get the 300 hundred proposed in this area we will have 11% of this requirement within 8 miles of New Cumnock. This is not right or fair. We have our share already with the 56 that we have. The impact on this area will be disproportionate and we believe that we already have our share and it is now up to other areas to take their share. Jeremy Sainsbury of Natural Power has pointed out that the Scottish Landscape can accommodate the number of required turbines and we agree with that. However this is not acceptable if they are all centred on just a few areas.

The proposed Kyle wind farm, with an installed capacity of 285 MW would produce electricity sufficient for the domestic needs of 160,000 households and contribute one sixth of the Scottish Executive's renewables target for 2010. There is considerable sympathy with the view that this development will result in a disproportionate burden on East Ayrshire in meeting the wider requirements of society. This is of particular relevance when considering the contribution already made by East Ayrshire in terms of existing renewable energy production and also in terms of the contribution though the production of opencast coal with consented reserves being greater than that of any other part of the UK.

- Taking Scottish Natural Heritage guidance into account, including cumulative impact, it is our belief that the threshold for turbines in this area has been reached in that we already have 56 turbines in a Zone 2 area and the cumulative impact would be unacceptable when considered with other proposals and the other exploitative activities of this area.

Scottish Natural Heritage, subject to modifications and appropriate conditions, does not object to the proposed development. SNH has considered the visual impact of the associated works, and the cumulative impact of this and other wind farm developments within the region, and considers that the local landscape character can accommodate wind farm development.

- We in New Cumnock believe that the future prosperity of this area lies in the development of the Tourist potential. The East Ayrshire Local Plan supports this view. The Tourist bodies also support our view that wind farms are detrimental to tourism. There is considerable past and ongoing exploitation and degeneration of this area which needs to be redressed.

The cumulative effect of this plus further degradation of areas of Natural Heritage is not acceptable. Whilst we support renewable energy sources we believe that other policies need to be explored and other areas need to take their share of the burden.

Comments as above.

- There is no benefit to the local area from this proposal and our instruction to the East Ayrshire Council is to reject this application. We call on East Ayrshire to support its Wards and its citizens in their efforts to regenerate and create prosperity and not to continue to kick us whilst we are down and trying to pick ourselves up.

Noted.

4.16 Scottish Natural Heritage notes that the addendum supplements the original Environmental Statement (ES) as part of the formal consultation. SNH responded to that consultation on the 29th December 2004 when its position was one of objection as the ES contained insufficient information to allow SNH to assess the impacts upon the natural heritage thoroughly. This response to the new amended application supersedes that of the 29th December 2004.

Noted.

The proposal has reduced in size from 100 turbines to 95 with eight turbines having been removed, eight relocated, and three added. The height and capacity of the turbines remain the same. SNH objects to the development unless it is made subject to conditions, modifications, and legal agreements, which would overcome our concerns, as detailed in Section 4 of the consultation response. Natural heritage interests affected by the proposed development include:

- The Craigengillan designed landscape, which is of national importance. SNH understands that Craigengillan is to be included in the Supplementary Volume of the Inventory of Gardens and Designed Landscapes. In a wider context, the wind farm will be visible cumulatively with others in the region, from a number of viewpoints.
- Limited pockets of blanket bog, raised bog and upland heath habitat, which are listed on Annex 1 of the EU Habitats Directive 1992 and the United Kingdom Biodiversity Action Plan (UKBAP), are recorded within the site.
- Significant bird species recorded at Kyle include peregrine falcon, hen harrier, goshawk, merlin, short eared owl and golden plover, all of which are listed on Annex 1 of the EC Birds Directive 1979 (except goshawk), and Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). Only goshawk is suspected of breeding within the application area. Black grouse, a species of high conservation concern, and a priority species

within the UK Biodiversity Action Plan, is recorded in regionally significant numbers. Otter and pipistrelle bat, both European Protected Species under the Conservation Regulations (Habitats and C) 1994 are recorded within the site. Red Squirrel is protected under the Wildlife and Countryside Act 1981 (as amended).

Noted.

SNH notes that the layout of the wind farm has been revised to reduce the visual impact of the development from Craigengillan designed landscape. The amended layout, although significantly improved, continues to have a significant adverse visual impact upon the Craigengillan designed landscape. SNH is of the opinion that turbines 75 and 76 create a significant visual intrusion on important views from, and across Craigengillan. Because of their separated appearance in relation to the adjacent turbines, and their prominent location upon the highest point (Windy Standard) in the landscape, the turbines, when viewed from these locations, become a noticeable and distracting landscape feature. Consequently, they become a significant visual intrusion within the views across to Craigengillan house, which is at the core of its designed landscape. SNH considers the impact of the two turbines upon the designed landscape to be significantly adverse and therefore requests that these turbines be removed or relocated.

It is agreed that in order to protect adverse visual impact on the Craigengillan candidate Historic and Designed Landscape, that turbines 75 and 76 be deleted from the scheme or relocated to avoid the impacts stated by SNH.

Subject to the above amendment, SNH has considered the visual impact of the associated works, and the cumulative impact of this and other wind farm developments within the region, and consider that the local landscape character can accommodate wind farm development. SNH notes that additional proposals have emerged within the local region since the original application was lodged, and that these have not been considered in the ES or addendum in conjunction with this proposal.

Notwithstanding the comments of SNH, the issue of cumulative impact is significant, particularly to the communities of New Cumnock and Dalmellington as evidenced by the consultation responses. While it is acknowledged that SNH has considered the visual impact of the associated works, and the cumulative impact of this and other wind farm developments within the region, and considers that the local landscape character can accommodate wind farm development, it is considered that the proposed Kyle development would cause unacceptable cumulative landscape and visual impacts on the wider landscape within which the development

is located. The Kyle proposal will be located on land, insofar as North Kyle is concerned, that is flanked to the west by the Chalmerston/Pennyvenie Opencast site and to the east by the House of Water Opencast site. These are existing developments that have significant visual and landscape character impacts the wider landscape in this locality. It is recognised that these impacts are temporary in nature and are reversible. However in taking cognisance of wind farm development (existing and proposed) and opencast developments in the same locality, it is considered that approval of the Kyle development would result in unacceptable cumulative visual and landscape character impacts.

With regard to ornithology, the additional information provided by the applicant reduces our concerns and SNH is satisfied that the development will not adversely affect any of the significant species recorded at Kyle. The substantial survey effort applied at the site, particularly for golden plover is commended.

Noted.

SNH fully support the substantial reduction in the area of permanent clear felling from 1100ha to 100ha. SNH was concerned that the creation of such extensive open habitat within the wind farm envelope would lead to an increase in bird activity within the turbine area, specifically from foraging raptors, leading to a increase risk of collision. The implementation of short rotation forestry within the wind farm site will reduce this likelihood substantially, whilst safeguarding habitat for goshawk; the nest sites of which must not be disturbed whilst in use. The implementation of substantial habitat management measures at Martyrs Moss will enhance the available habitat for foraging raptors, whilst the habitat enhancement at Mossdale will aid in the conservation of a regionally important black grouse population; both areas are located outwith the wind farm footprint.

Noted.

SNH is content that the collision risk to birds associated with this new proposal is not significant. SNH supports the conclusions drawn in the addendum that the wind farm will not adversely affect significant bird populations, and indeed SNH agrees that the collision risk calculations are likely to be an overestimate, based on proposed activity and the mitigation proposed. SNH consider it vital that both the habitat management areas and the wider wind farm footprint are monitored to evaluate the efficacy of mitigation measures.

It is considered that appropriate monitoring and auditing of the mitigation measures should be the subject of appropriate conditions in any consent granted.

No records of roosting or hibernating bats were recorded within the site. Other than significant evidence of otter within the southern rivers and burns, no substantial faunal populations were recorded. The original response indicated SNH's concern regarding the survey effort applied for squirrel; however the applicant has provided details highlighting the extensive nature of the surveys undertaken: there was only one record of squirrel within the site. The inclusion of Appendix 13, which was missing from the original ES, confirms that the wind farm site is of limited value in terms of protected species. The provision of outline method statements provides confidence regarding the working procedures at the site during construction, and how this may impact upon the European Protected Species, specifically otter and pipistrelle bats. All method statements require to be finalised, however SNH welcomes the sensitive mitigation proposed, particularly mammal tunnels within significant culverts and bridges. The use of fencing around bridges and important crossing areas must also be implemented to reduce the likelihood of road fatalities. SNH agrees with the applicant that given the passage of time since surveys were first undertaken, further surveys for otter will be required prior to the implementation of construction.

Noted.

SNH acknowledges that the vast majority of the wind farm is located within conifer forest and that the natural heritage value of this area is limited. The removal and relocation of turbines and access tracks from Martyrs Moss and Windy Standard further reduces the impact of the development upon blanket bog, marshy grassland and dry dwarf shrub heath habitats. The implementation of effective site restoration practices such as immediate re-turfing of road batters will further reduce the impacts of the development upon habitats. The continuation of forestry operations, and the substantial reduction in clear felling directly associated within the development, will ensure that surface run off, and hence sedimentation of burns and tributaries is minimised significantly. The implementation of best practise guidance and the employment of an ecological clerk of works to oversee construction work activities will further reduce the risk of sedimentation. A baseline study of freshwater fish, as confirmed by the applicant, is commended, as is the long term monitoring and evaluation studies at the site.

Noted.

The addendum includes the peat stability report requested by SNH in its original response. The open areas within the site, which include blanket bog, forestry rides and recently felled plantation, indicate that there is a low risk of peat failure. SNH notes that sections categorised as high and medium risk are recorded, and its opinion is that no construction work should be undertaken within high-risk locations. Although there are a number of areas that remain to be assessed for stability, it is evident that this cannot be achieved until the trees are harvested. SNH therefore requests that further assessments be undertaken once harvesting

has occurred, prior to the instigation of construction work. Construction work should not be undertaken within areas identified to be at high risk of peat failure. This will ensure that the risk of a major peat slide is minimised, and hence sensitive natural heritage interests are safeguarded.

Noted.

SNH object to this development unless it is made subject to the following conditions, modifications or legal agreements:

- Turbines 75 and 76 are removed/relocated to reduce the adverse visual impact of the development upon the Craigengillan designed landscape. SNH must be consulted regarding the relocation of these turbines.
- The proposed habitat management and monitoring plan considered in Section 17.3 of the Kyle Wind Farm addendum, and 24.5 of the Kyle Wind Farm ES, should be submitted to the competent authority for approval in consultation with SNH. The management plan will as a minimum implement the key aims identified in paragraph 18, and the prescriptions stipulated in paragraph 21, of section 24.5 of the ES. Furthermore, the additional prescriptions related to forestry management identified in paragraph 9, of section 17 within the addendum will also be implemented. Areas to be managed under the management plan shall include Martyrs Moss and Mosssdale, as identified in figures 9-01 and 9-02 within the addendum. An appropriately qualified ecologist should undertake survey, monitoring and assessment of habitat quality to be restored and/or enhanced under the prescriptions stipulated within the Habitat Management Plan.
- The implementation of the habitat management plan should be secured via an appropriate legal agreement(s), which must be obtained prior to the issue of any consent and deemed planning permission.
- Forest to be felled between the periods of April and July must be surveyed for nesting birds listed upon Schedule 1 of the Wildlife and Countryside Act 1981. Where located, mitigation must be put in place to protect the nest sites from disturbance. Where mitigation cannot offset the impact of disturbance upon nesting birds, a licence must be sought from the Scottish Executive to disturb the relevant species.
- Rivers and streams which are to be culverted or bridged must be surveyed for the presence of otter, before the instigation of construction work. SNH recommends that a search area of 100 metres upstream and downstream of each crossing point is searched for otter holts, couches, and pathways. In addition, where turbine bases, construction compounds and borrow pits are to be located within 200 metres of freshwater environments, the developer should undertake survey work to identify any otter holts, couches or pathways within the development footprint, and within a 100 metre radius of said footprints. Where otter are recorded by the survey, and disturbance to this species is concluded to be likely, the developer

must identify appropriate mitigation, where practicable, or seek a licence to disturb otters from the Scottish Executive to undertake operations within affected areas.

- Mammal tunnels or ledges must be located on all bridges and culverts where otter are recorded, as confirmed in Chapter 6 of the ES, and outline construction method statement No 10 “River Management” paragraph 21, within the addendum. Otter ledges should be placed 15cm above the highest flood level and, where possible, be approximately 50-60cm in width. Where large culverts or bridges are required, fencing must be placed along the roadside to deter otters from crossing the road.
- No bat roosts were recorded within previous surveys undertaken. However, if bats roosts are recorded during construction, and disturbance to this species is concluded to be likely, the developer must identify and implement appropriate mitigation, or seek a licence to disturb bats or destroy a roost from the Scottish Executive, before undertaking operations.
- Throughout the construction, operational and decommissioning phases, an appropriately qualified “Ecological Clerk of Works” (ECOW) should be available to direct the micro-siting of construction works (turbines, borrow pits, bridges, compounds, tracks etc) to ensure sensitive features are avoided, and ensure that habitat enhancement works and all mitigation and restoration measures are fully implemented. The role of the ECOW should be clearly conveyed to all personnel before their commencement of work on the site.
- A peat stability assessment must be undertaken in those areas currently unsurveyed. The assessments must be undertaken before the implementation of construction work. Full details of the assessment must be submitted to the competent authority for approval. No construction work should be undertaken in areas categorised as being at a high or very high risk of subsidence.
- A legally binding Restoration Bond should be established before any development commencing. This should cover all site restoration and decommissioning costs from the end of the current application.
- A decommissioning plan should be submitted for approval by the competent authority prior to the cessation of the planning permission. The plan must thereafter be fully implemented. All turbines, ancillary equipment and buildings should be removed from the site, and restoration work identified and implemented once infrastructure has been removed.
- The development should proceed in accordance with the details as set out within the original ES, and where amended within the addendum. Any proposed deviation from the detail provided within these documents, which is relevant to our interests, should be the subject of further consultation with SNH.

SNH further advises that the following recommended conditions be considered for inclusion with any final consent but should not be considered part of the objection.

- Finalised construction method statements should be submitted for approval to the competent authority in liaison with SNH. SNH should be consulted regarding the restoration and monitoring proposals within the following statements; road and turbine construction, construction on peat, borrow pits, peat spoil management, river management and site reinstatement.
- All cut turfs associated with the construction of new or upgraded roads should be relocated to exposed batters (road edges) immediately after each section is complete. This will ensure that desiccation of turf is minimised and restoration success maximised. Where turfs are to be stored the developer should ensure that turfs are watered frequently in periods of prolonged dry weather.
- The reuse of turf, top soil, sub soil, and peat, should be carried out appropriately, with each relayed in the correct position – i.e. top soil is replaced as top soil.
- All vehicles entering the site should be allocated a spill kit, and the driver instructed in pollution prevention methods. Spill kits should also be placed at all bridge or culverts. The implementation of this practice has proved invaluable at other wind farm sites.

The above stated requirements of SNH can be encompassed either by means of conditions or within a Section 75 Agreement should consent be granted for the proposed development.

SNH concludes that the proposed development as currently submitted is likely to have adverse impacts on the natural heritage interests as detailed above – in particular on Craigengillan designed landscape, bog habitats, and otter. These impacts can be reduced to a satisfactory level by the use of conditions/modifications and agreements as detailed above. Should the application not be made subject to the above conditions or legal agreements then this position should be considered as an objection.

It should be noted that the developer has accepted the proposed conditions/ modifications/ recommendations of SNH.

4.17 The Royal Society for the Protection of Birds (Scotland) does not object to the proposed development. Although RSPB did not object to the original application, several issues of concern were raised relating to this development. In general, RSPB welcomes the changes in turbine layout, particularly the removal of turbines 29 and 30 and the decision not to clear fell large areas of forestry around the turbines. However, RSPB has some concerns about the extent of the habitat management areas and whether there will be sufficient net

increases in open ground and native woodland habitats within the site to act as effective mitigation areas.

Noted.

RSPB notes that the area of open habitat has decreased significantly with the change from clear felling of forest to selective felling around turbines within short rotation forestry. It should be remembered that young forestry is an attractive hunting habitat for hen harriers and other raptors. To reduce collision risk a management plan for felled and newly planted coupes will be required to ensure that raptors are not attracted to the wind turbine envelope.

It is considered that the management plan for felled and newly planted coupes can be incorporated within the Habitat Management Plan proposed by the developer.

While this change is likely to have the beneficial effect of reducing collision risk, we had expected a positive impact from the clear fell areas at greatest distance from the turbines, as these would have changed from plantation forest to open habitat with potentially far greater wildlife value. We are disappointed that the opportunity to reinstate more open habitat has been lost by reducing felling around the turbines without increasing it elsewhere on the site.

Noted.

RSPB requested the removal of turbines 29 and 30 to avoid conflict with the aims of the Habitat Management Plan and damage to peat in an area of peatland restoration. RSPB welcomes the decision to remove turbines 29 and 30 as indicated in the Addendum.

Noted.

RSPB requested the removal of turbines 70, 78 and 79 to avoid damage to a significant area of peatland habitats. Following discussions with the developer, RSPB has agreed that the impact of these turbines can be mitigated with sensitive micro-siting and the presence of an ecologist during construction.

Noted.

RSPB requested that production and implementation of a habitat management plan with a steering group be formalised through a condition of consent or production of a Section 75 agreement. RSPB now welcomes the commitment to establish a habitat management group, including RSPB Scotland and SNH. A habitat management plan agreed by all parties must be in place as part of a legal agreement, before construction begins.

The Habitat Management Plan proposed by the developer can be secured by a Section 75 Agreement. It is further agreed that should consent be granted for the proposed development a Habitat Management Group be established for the site with participation by relevant stakeholders. It is further agreed that the Habitat Management Plan should be in place prior to the commencement of construction works on site.

RSPB is disappointed that the area of habitat enhancement, in particular, the area of felling, remains relatively small, given the scale of the development. The recommendations for expanding the open habitats in the Upper Beoch area have not been adopted. No indication is given in the addendum of the area that will be felled or managed for black grouse at Mossdale.

Noted.

The addendum presents a proposal to maintain current land management as far as possible. RSPB appreciates that minimising deforestation could reduce the likelihood of attracting raptors to the turbine envelope but are disappointed that no complimentary increase in felling area is occurring as mitigation for the development. RSPB notes that the area of broadleaved trees and open ground that would have been included within the turbine envelop to comply with UK Forestry Standards will be relocated to the HMP areas. RSPB would like to emphasise that the habitat management areas should contain significant mitigation work, including felling, in addition to the positive habitat enhancement that would have been carried out as part of ongoing forest management. There should therefore be a significant net increase in areas under positive habitat management across the whole site.

Noted.

The addendum states that the habitat management group will agree monitoring for the site. RSPB is happy with this approach but requests that this is done before construction starts. RSPB also welcomes the commitment to monitor prey availability within the turbine envelope as a means of assessing the effectiveness of mitigation there. RSPB requests also that the results of ongoing black grouse monitoring be circulated to SNH and RSPB.

It is considered that in any consent granted for the proposed development, appropriate survey, monitoring and environmental audits be carried out during the life of the proposed wind farm and that relevant stakeholders are consulted on such information as part of the remit of the Habitat Management Group.

4.18 East Ayrshire Environmental Health Division notes from the noise summary that the predicted noise level from the wind farm is 36 dB(A) at the

nearest sensitive noise location The location is not specified; however if levels are within the predicted limits then they would be within acceptable limits.

Noted.

Whilst the majority of the turbines and service roads thereto will be well away from the small number of properties lying on or adjacent to public roads used for access, the scale of the development will require the upgrading of miles of existing forest access roads and the construction of new roads. This will entail the use of heavy plant not only in road construction engineering but also from the extraction of stone from borrow pits within the development area. Precautions would require to be taken during quarrying and road construction works to avoid pollution of watercourses and also to ensure there is no dust and /or noise nuisance caused to any residents in the locality.

The Environmental Statement proposes mitigation measures to minimise impact on watercourses and in this regard Construction Method Statements will require to be agreed in consultation with SEPA. Similarly appropriate mitigation measures will be implemented to ensure that the potential for dust and noise nuisance is minimised.

Upper Beoch Farm is serviced by a public mains water supply, although others such as Clawfin and Glenmuck have their own private supply sources from ground nearby. Whilst wind farm construction activities are not likely to be in immediate proximity to these sources, it should nevertheless be incumbent on the developer to ensure that there is no detrimental impact on these supplies.

A condition can be attached to any consent granted to ensure that water supplies to existing properties are not prejudiced by the proposed development.

4.19 Dumfries and Galloway Council (Stewartry Area Regulatory Committee) at its meeting on 25 January 2006 considered the consultation from the Scottish Executive on the Kyle development, insofar as it affected its administrative area. The Committee agreed to advise the Scottish Ministers that the Council offers no objection to the proposal (as amended) subject to the conclusion of a Section 75 Agreement covering a number of issues. The Committee, in response to this Council's formal consultation on the whole Kyle development, also agreed to advise that Dumfries and Galloway Council offers no objections to the proposal subject to the conclusion of a Section 75 Agreement with the developer.

Noted.

4.20 MOD Defence Estates Safeguarding and The Scottish Wildlife Trust have not responded to the consultation letter.

Noted.

5. REPRESENTATIONS

5.1 A number of letters of representations sent to the Scottish Executive have been copied to this Council. A total of five letters from three signatories have been received with regard to the proposed development. One of the letters received extends to some 37 pages and another to 10 pages. The main points of objection are summarised below but full copies of the representations are available for inspection as background papers.

5.2 In addition to the copy representations received directly, it is understood that the original Kyle Wind Farm submission attracted 2,219 letters of objection of which 53% emanate from the Dalmellington area and 21% from the Patna area. A small number of the objections have come from Cumnock, New Cumnock, Drongan, Carsphairn and Kilmarnock. Some 23% of objections (501 letters) emanate from outside these areas. The Scottish Executive confirms that in respect of the Addendum submission, some 1070 letters of objection have been received. It is understood that 90% of all responses are pro forma letters. It is not clear at this stage as to how the objections will be considered by the Scottish Executive or indeed as to the details of the representations made. Nonetheless, this represents a significant level of local objection to the proposed development and will require to be taken into consideration in the Scottish Minister's consideration of the Section 36 application.

5.3 The points of objection are summarised as follows:

- The proposal is contrary to Structure Plan policy E11 as the proposal will visually dominate Dalmellington and would prevent the sustainable regeneration of the economy and the environment.
- At up to 120 metres high, the turbines are equivalent to 50 storey office blocks, dominating the setting of Dalmellington, Burnton, Patna and Waterside.
- The turbines would brutally dominate the adjoining Sensitive Landscape Character Area as well as a Designed Landscape recognised by Historic Scotland as being of national importance.
- Over the last two centuries Dalmellington and the Upper Doon Valley have paid a high price in helping to produce and carry the nation's energy needs. Deep coal mines, opencast development and the interconnector pylons have scarred the landscape. This has reduced the attraction of the area as a place to live, work and enjoy, making it harder for new investment.
- The area already contributes greatly to renewable energy e.g. Loch Doon hydro-electric scheme, wind farms at Ardrossan, Hadyard Hill, Windy

Standard and Hare Hill and there is great potential for biomass crops on restored opencast sites.

- It is claimed that the proposal will lead to about 20 jobs. Through sterilisation of coal reserves, and more importantly as a result of preventing approved regeneration projects including the curling and environmental centres, the proposal would result in the loss of around 150 full time jobs.
- The development would destroy all chance of a tourism based economic recovery and undo all of the work and improvements of the recent past.
- Nearly 2000 acres adjoining Dalmellington has been recognised by Historic Scotland as a Designed Landscape. Active conservation of this land has proved what can be done in the Upper Doon Valley as a whole. An outdoor curling centre and an environmental centre are due to open within the next 12 months producing a minimum of 48 new jobs. These enterprises depend to a large extent on the natural beauty of their surroundings. They will not succeed if the landscape is blighted.
- There are many keen pigeon racers here and an active club. The turbines would make it impossible to continue, as has been shown elsewhere.
- A public / private partnership has resulted in the restoration of a public footpath through Ness Glen, an SSSI described as the finest example of a natural gorge in Southern Scotland. The proposed turbines would be clearly visible from this path and would take away from the experience of dramatic wilderness.
- The proposal is contrary to the principle of Environmental and Social Justice expounded by the First Minister on 18 February 2002.
- We are concerned that the applicant did not fairly represent the scale of the proposed development and did not explain that the full time jobs they claim will be created are actually in Denmark.

5.4 A letter from a potential partner in developing an Outdoor and Environmental Centre on Craigengillan Estate to the Scottish Executive states that the proposed wind farm development is likely to put an end to plans for the proposed centre. The letter also states that the proposed wind farm should be rejected on the grounds of

- social justice for an area ransacked by industry for generations;
- support of a far more beneficial proposal for the outdoor and environmental centre;
- the sacrificing of new jobs and training opportunities in the area.

5.5 A letter of representation relating to the potential sterilisation of coal reserves has been withdrawn.

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 (1999) and the Adopted East Ayrshire Local Plan (2003).

Ayrshire Joint Structure Plan

6.2 Policy E1(E) stipulates that new development should allow for the conservation of skylines and hill features including prominent views.

From the wire-frame and photomontages supplied as part of this application, there would seem to be no local views of the skyline that would not be the subject of some visual disruption by this proposal in terms of at least blade tip intrusion and in many cases considerable numbers of turbines which would be visible to hub level in clumps from prime locations for tourism e.g. Loch Doon, approach to Dalmellington, along A713 from the north, picnic site on A713 and Blackcraig Hill. It is considered that the situation of the wind farm within afforested areas will have little ameliorating effect on such skyline disruption from most locally important vantage points. In view of this significant disruption to the local skyline, the proposal would run counter to the provisions of Policy E1(E).

6.3 Policy E2 provides that within Sensitive Landscape Character Areas, the protection and enhancement of the landscape shall be given prime consideration in the determination of development proposals.

While none of the turbines would be located within a Sensitive Landscape Character Area (SLCA), they will be situated very close to the boundary of that designated area which extends along the Doon Valley to Loch Doon. Views out from the SLCA and into it would be adversely affected to a significant degree. This would apply to local views e.g. into the SLCA from the B741 approaching Dalmellington and wider vistas e.g. from Blackcraig Hill. With regard to the latter and similar views from local summits, the cumulative visual impact of the proposed wind farm with the existing and proposed turbines at Windy Standard would only serve further to erode the natural beauty of the designated area through the stringing of turbines across valued panoramas. So, while not being strictly within the SCLA the proposal would adversely affect it and therefore could be held to be

counter to the spirit of Policy E2 of the Structure Plan, albeit not contrary to it.

6.4 Policy E10 states that proposals for renewable energy development shall conform to the structure plan where it can be demonstrated that:

- A. there are likely to be no significant adverse environmental impacts or infrastructure constraints; and
- B. the design of the development is sensitive to the landscape character appropriate to the local circumstances.

It is considered that the proposed Kyle development would cause unacceptable cumulative landscape and visual impacts on the wider landscape within which the development is located. The Kyle proposal will be located on land, insofar as North Kyle is concerned, that is flanked to the west by the Chalmerston/Pennyvenie Opencast site and to the east by the House of Water Opencast site. These are other developments that have significant visual and landscape character impacts the wider landscape in this locality. It is recognised that these impacts are temporary in nature and are reversible. However in taking cognisance of wind farm development (existing and proposed) and opencast developments in the same locality, it is considered that approval of the Kyle development would result in unacceptable cumulative visual and landscape character impacts.

6.5 Policy E11 states that proposals for wind turbine and wind farm development, including their construction, siting, access and transmission links shall conform to the development plan where it can be demonstrated that there is no significant adverse effect on:

- A. local communities;
- B. landscape character and visual amenity;
- C. natural environment;
- D. built heritage;
- E. telecommunications, transmitting or receiving systems; and
- F. prime quality, or locally important good quality agricultural land.

When assessing proposals, account will be taken of existing sites with planning permission and the cumulative impact of development proposals.

In respect of criterion B, comments are as paragraph 6.4 above.

East Ayrshire Local Plan

6.4 Policy ENV10 (iii) states that development likely to adversely affect Provisional Wildlife Sites will be resisted and all sites of recognised conservation value will be safeguarded wherever possible. Where development is approved for such sites, appropriate measures should be taken to conserve, manage, as far as possible, the site's biological or geological interest and to provide for replacement habitats or features where damage is unavoidable.

It is estimated that about one fifth of the northern part of the proposed area lies within the Martyr's Moss Provisional Wildlife Site (PWS). The site consists of blanket bog described by the Scottish Wildlife Trust as having good microform mosaic and an extensive area of bog pool systems. It is recognised that two turbines previously located within the PWS have been relocated while one remains close on its boundary. A spine servicing road is shown that would run through the western part of the PWS. The construction of this route is likely to have an impact on the integrity of the PWS. However, it is recognised that SNH has not objected to this subject to appropriate agreement on management measures to conserve and enhance the Martyrs Moss area through the implementation of the Habitat Management Plan. It is accepted that this would result in positive benefits to habitat biodiversity. In this regard, the proposal would not conflict with the provisions of Policy ENV10(iii).

6.5 Policy ENV11 states that within Sensitive Landscape Character Areas the Council will, in considering rural development proposals, give prime consideration to the protection and enhancement of the landscape. Development which would create unacceptable intrusion or irreparable damage in such areas would not be supported. Only proposal which positively enhance or protect the natural landscape, wildlife and cultural heritage of the area or promotes the social well-being of communities would be supported.

While none of the turbines would be located within a Sensitive Landscape Character Area (SLCA), they will be situated very close to the boundary of that designated area which extends along the Doon Valley to Loch Doon. Views out from the SLCA and into it would be adversely affected to a significant degree. This would apply to local views e.g. into the SLCA from the B741 approaching Dalmellington and wider vistas e.g. from Blackcraig Hill. With regard to the latter and similar views from local summits, the cumulative visual impact of the proposed wind farm with the existing and proposed turbines at Windy Standard would only serve further to erode the natural beauty of the designated area through the stringing of turbines across valued panoramas. So, while not being strictly within the SCLA the

proposal would adversely affect it and therefore could be held to be counter to the spirit of Policy ENV11, albeit not contrary to it.

6.6 Policy ENV12(vi) states that throughout the rural area, and especially in the Sensitive Landscape Character Areas identified on the Local Plan maps, the Council will ensure that all development proposals respect, in terms of their design, the local landscape characteristics of the particular area in which they are proposed. Developers will be expected to conserve and enhance, and re-instate or replace where appropriate, those features which contribute to the intrinsic landscape value and quality of the area concerned including....existing skylines, landform and contours.

It is accepted that the Addendum to the Environmental Statement has produced a revised layout for the Kyle development that seeks to ensure that the site design respects the local landscape characteristics of the area in which it is located insofar as possible. However, impacts will still occur and it is considered that these will still be significant, given the scale of the development and its relationship to other wind farm developments, existing and proposed.

6.7 Policy ENV13 under criteria (ii) and (iii) states that within the rural area, and especially within the Sensitive Landscape Character Areas identified in the Local Plan maps, the Council will ensure, through the development process, that...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...that the landscape setting of a particular area affected by a proposed development is safeguarded from adverse or irreversible change by the use of planning conditions, management agreements, preparation and promotion of environmental improvement schemes, development and design briefs etc.

As indicated in the consultation responses, a number of issues remain to be addressed but these can be addressed though the imposition of appropriate conditions in any consent granted for the development or by means of legal obligations secured through a Section 75 Agreement.

6.8 Policy CS9 states that the Council will require all applications for renewable energy developments which fall within the scope of the Environmental Impact Assessment Regulations to be accompanied by an environmental assessment. All wind farm, wind turbine and other renewable energy developments will be rigorously assessed against the following criteria:

(i) the extent to which the development may adversely affect sites of nature conservation interest and, in particular, the natural habitat, territory and breeding areas of upland birds;

While part of the spine access track crosses the Martyrs Moss Provisional Wildlife Site, with the Habitat Management Plan proposed that seeks to enhance and promote greater biodiversity of the moss, it is considered that the wind farm development at Kyle will not significantly adversely affect this site of nature conservation interest. It is noted that, subject to appropriate conditions, both SNH and RSPB do not object to the proposed development.

(ii) the extent to which the amenity of residents nearby towns, villages and other residential properties 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 Environmental Statement that there will be any significant adverse impact on residential properties through noise and other potential nuisance. With regard to visual dominance of the proposed wind farm, the Addendum has considered visual impacts and promoted an amended layout to remove, relocate or replace turbines where visual impact was not considered acceptable, primarily in relation to impact on the Craigengillan candidate Historic Garden and Designed Landscape.

(iii) the extent to which the development may adversely affect any recognised heritage resources;

Subject to appropriate conditions being attached to any consent granted WOSAS and SNH do not object to the proposed development. In terms of the Craigengillan cHGDL, the Addendum to the Environmental Statement promotes a revised layout to remove, relocate or replace turbines where visual impact was not considered acceptable, primarily in relation to impact on the Craigengillan candidate Historic Garden and Designed Landscape. Indeed, SNH takes this further and will object to the proposed development if certain turbines still considered to have a visual impact on the landscape and visual quality of Craigengillan cHGDL are not removed from the scheme or appropriately relocated. The applicant has agreed to conform to the requirements of SNH in this regard.

(iv) the visual impact of the proposal and its setting within the immediate and wider natural landscape;

The scale of the proposed Kyle Wind Farm development is significant with a total of 95 turbines now proposed. It is accepted that the development will largely take place within an existing commercial coniferous forest. Nonetheless visual impact will occur and while significant impacts may in the greater part be confined locally regard has to be made on the impact on the wider natural landscape. See comments at (vii) below.

- (v) the extent to which the proposal may conflict with the Council's strategy to promote tourism developments in the Doon Valley...Glen Afton...

The Environmental Statement, based on available research on public attitudes and tourism impacts, concludes that the proposed Kyle development is not likely to have a detrimental effect on tourism within East Ayrshire or Dumfries and Galloway. The applicant suggests that the Kyle Wind Farm could be one of the largest onshore wind farms in the UK and as such, could be an asset to the area if promoted in a positive and innovative manner, such as through links with Dunaskin Heritage Centre. In terms of recreation, the Kyle development has a potential to promote increased recreational access to the area which could potentially have a positive impact on visitor numbers and associated spending in the area.

It is noted that in terms of third party representations, indications have been given that should consent be granted for the Kyle development, other tourism and regeneration projects already with the benefit of planning consent in the Dalmellington area will not be implemented.

- (vi) the extent to which the proposal may adversely affect or irreversibly damage prime quality agricultural land;

No prime quality land is affected by the proposed development.

- (vii) the cumulative impact of the proposal with other existing or authorised renewable energy developments within the vicinity of the development site;

The Cumulative Landscape and Visual Assessment Report submitted as part of the Environmental Statement concludes that in relation to existing and consented wind farms, the Kyle proposal would give rise to a number of significant cumulative effects related to Hare Hill and Windy Standard in views from dispersed dwellings east of the Kyle development site, sections of the A70 and B741 roads where cumulative effects would be no greater than the Kyle development in isolation and in the views experienced from hill in the local area

including Blackcraig and Cairnsmore of Carsphairn. The assessment also concludes that significant cumulative landscape and visual effects from the Windy Standard proposed extension. It is understood that this proposal has now been agreed subject to the conclusion of a Section 75 Agreement, although formal consent has not yet been issued. The Report suggests that the significant landscape and visual effects would tend to occur in areas where Kyle wind turbines would already be significant.

Nonetheless, it is noted that Hare Hill Wind Farm (20 turbines) lies 8.5 km to the east of Kyle and Windy Standard Wind Farm (30 turbines) lies 3.7 km to the south east. The proposed Windy Standard extension (36 turbines) would lie 0.8 km to the south. While the Windy Standard developments and part of the Hare Hill development lie within Dumfries and Galloway, the visual and landscape impacts extend into East Ayrshire. The proposed Kyle and Windy Standard extension developments would also result in turbine with a blade tip height double that of the existing Hare Hill and Windy Standard wind farms.

While it is acknowledged that SNH has considered the visual impact of the associated works, and the cumulative impact of this and other wind farm developments within the region, and considers that the local landscape character can accommodate wind farm development, it is considered that the proposed Kyle development would cause unacceptable cumulative landscape and visual impacts on the wider landscape within which the development is located. The Kyle proposal will be located on land, insofar as North Kyle is concerned, that is flanked to the west by the Chalmerston/Pennyvenie Opencast site and to the east by the House of Water Opencast site. These are other developments that have significant visual and landscape character impacts the wider landscape in this locality. It is recognised that these impacts are temporary in nature and are reversible. However in taking cognisance of wind farm development (existing and proposed) and opencast developments in the same locality, it is considered that approval of the Kyle development would result in unacceptable cumulative visual and landscape character impacts.

(viii) the environmental impact of the connections linking the development site with the national grid and the provision of adequate access arrangements from the surrounding road network; and

The grid connection does not form part of the current Section 36 application and will be the subject of a separate application under Section 37 of The Electricity Act 1989. Subject to appropriate

conditions and legal obligations secured through a Section 75 Agreement, the Roads and Transportation Division does not object to the proposed development.

(ix) the impact of the turbines on radar performance and other air safety considerations.

While both Glasgow Prestwick Airport and National Air Traffic Services have maintained objections to the proposed development both parties have acknowledged that a technical solution to the issue of impact on radar may be available and on that basis legal agreements are to be put in place to ensure that the radar issue is fully addressed before any works take place on the proposed wind farm. In this regard should consent be granted by the Scottish Ministers, a negative suspensive condition or a legal obligation in a Section 75 Agreement could be attached to safeguard this position.

6.9 Policy TLR7 states that the Council will seek to develop a definitive strategic and local footpath and cycleways network including encouragement and promotion of strategic long distance cycle route and footpath links.

It is considered that there may be potential for use of turbine servicing routes for leisure recreation uses.

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, National Planning Policy Guideline 6: Renewable Energy,, Planning Advice Note 45: Renewable Energy Technologies.

Consultations Responses

7.2 Apart from the consultations received from Dalmellington and New Cumnock Community Councils, 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. With regard to the objections raised by the Community Councils, it is considered that the concerns raised regarding the cumulative impact of the development in terms of landscape character and visual amenity are relevant in this instance. There is also a clear perception of the Community Council's that the proposed development will severely prejudice existing and proposed

regeneration projects in the local communities, particularly in relation to tourism developments.

Representations

7.3 Of the representations received directly by this Council, there are similar concerns to those raised by the local community councils 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 in relation to this Council coming to a view on the proposed development. Notably 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.'

NPPG 6: Renewable Energy

7.4 NPPG 6 in paragraph 2 states:

'The promotion of renewable sources of electricity generation, an integral part of the UK Government's energy policy, has been identified as having a key role in its commitment to addressing the causes of climate change and the introduction of measures in support of the UK "Climate Change Programme". The policy is for renewables to make a steadily increasing contribution to secure, diverse and sustainable energy supplies, as electricity consumption increases, existing generating capacity is retired and climate change reduces the incentive to generate electricity by burning fossil fuels. The Scottish Executive is therefore committed to increasing the amount of renewable energy used in Scotland.'

Paragraph 12 goes on to state:

'Scotland possesses a large part of the UK potential for producing energy from wind, hydro, and biomass sources (particularly forestry wastes). There are also opportunities for energy from waste and landfill gas developments. In the longer term, wave power and offshore wind may provide further sources of renewable energy. The Scottish Ministers have indicated that they are committed to the development and promotion of such renewable sources of electricity generation and wish Scotland to make an important contribution to the UK's Climate Change Programme and the renewables target. As part of the Scottish Climate Change Programme, the Scottish Executive proposes to increase the figure of up to 12.5% expected from renewables by 2003 by a further 5% by 2010. Its target will be to achieve a similar increase in renewable energy use in Scotland to that for the UK as a whole, taking the Scottish total to around 17 - 18% by 2010. This will

be achieved by implementation of the new Renewables Obligation (Scotland) on licensed electricity suppliers.'

The proposed Kyle development, representing a generating capacity of 285 MW represents a significant contribution to meeting renewable targets for Scotland to the extent that it would meet one sixth of the target to be achieved by 2010.

In terms of tourism and recreation, paragraph 31 states:

'In many areas of Scotland, tourism and recreation support local economies and to varying degrees such activities depend on the quality of the environment, in particular the landscape. This does not mean that renewable energy developments are incompatible with tourism and recreation interests. Sensitive siting can successfully minimise adverse impacts, particularly visual impacts, but it is unrealistic to expect such developments to have no effect at all. Opinions are divided as to whether some renewable energy developments, such as wind farms or hydro schemes, may themselves be of interest to tourists and the extent to which their existence can be compatible with recreational pursuits such as hill walking.'

PAN 45: Renewable Energy Technologies

7.5 PAN 45 is an accompaniment to NPPG 6 and provides information on renewable energy technologies and advice for dealing with these as planning issues in both development plans and planning applications. In relation to wind energy developments issues include safety, proximity to roads, electro-magnetic interference, noise, shadow flicker, birds and habitats, cumulative effects, siting in the landscape, visual impact, decommissioning and the EIA process requirement.

The proposed Kyle development has taken into consideration the provisions of PAN45 in terms of addressing the issues arising from renewable energy technologies and indeed promotes good practice developed since the publication of PAN 45 in January 2002.

7.6 The Ayrshire Joint Structure Plan Committee approved Policy ECON7 on Wind Farms at its meeting on 20 January 2006 for referral to each of the three Ayrshire Authorities. The draft report was considered by the Development Services Committee on 11 January 2006 and was approved in relation this aspect of policy. The Ayrshire Joint Structure Plan, subject to the other Ayrshire Authorities agreeing to it, will be submitted to the Scottish Ministers for approval and therefore some weight should be attached to this policy as a material consideration. Policy ECON7 paragraph A directs development for large scale wind farms firstly to Preferred Areas of Search as identified on the Key Diagram.

The Kyle development site does not fall within any Preferred Area of Search as identified in the Key Diagram

In terms of Policy ECON7B, outside the preferred areas of Search, proposals for wind farm development, including their construction, siting, access and transmission links to the grid shall conform to the plan, only where it can be demonstrated there is no significant adverse effect on :

- communities
- landscape character and visual amenity
- natural environment
- built and cultural heritage
- telecommunications, transmitting or receiving systems
- operational requirements of Glasgow Prestwick and Glasgow Airports.

When assessing proposals, account will be taken of existing sites with planning permission and the cumulative impact of known development proposals

It is considered that the proposed Kyle development would cause unacceptable cumulative landscape and visual impacts on the wider landscape within which the development is located. The Kyle proposal will be located on land, insofar as North Kyle is concerned, that is flanked to the west by the Chalmerston/Pennyvenie Opencast site and to the east by the House of Water Opencast site. These are other developments that have significant visual and landscape character impacts the wider landscape in this locality. It is recognised that these impacts are temporary in nature and are reversible. However in taking cognisance of wind farm development (existing and proposed) and opencast developments in the same locality, it is considered that approval of the Kyle development would result in unacceptable cumulative visual and landscape character impacts.

8. FINANCIAL AND LEGAL IMPLICATIONS

8.1 There are no financial implications for the Council in coming to a view on this application. However, 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

9. CONCLUSION

9.1 As indicated in section 6 of the report, the Section 36 application is 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 consultee, but lacking the support of local community councils and a significant number of member of the local community.

9.2 The proposed Kyle Wind Farm development is considered to be contrary to Policies E1(E), E10(B) and E11(B) of the approved Ayrshire Joint Structure Plan 1999. Furthermore is assessing the proposals against the criteria set out in Policy CS9 of the adopted East Ayrshire Local Plan, it is considered that the proposal:

- presents unacceptable visual impacts in terms of the setting of the proposed wind farm within the immediate and wider landscape
- presents unacceptable cumulative impacts when considered with not only other existing or authorised renewable energy developments within the vicinity of the development site, but also other energy resource exploitation through opencast mining developments close to the development site.

9.3 It is considered that the scale of the proposed development, in providing a generating capacity that would meet one sixth of the Scottish Executive's renewable energy 2010 target places a disproportionate burden on the local communities in East Ayrshire in satisfying the energy needs of the wider community. This is of particular relevance when considering the contribution already made by East Ayrshire in terms of existing renewable energy production and also in terms of the contribution though the production of opencast coal with consented reserves being greater than that of any other part of the UK.

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

- the preparation of a Habitat Management Plan and a Forest Design Plan that, in terms of proposed mitigation of adverse impacts on the natural environment, would deliver positive benefits to managed areas through increased biodiversity;
- the setting up of a Habitat Management Plan Support Group involving relevant stakeholders to inform on management of these areas;
- the setting up of a Community Fund to promote socio-economic benefit to local communities;

- the benefits accruing from the £180 million construction programme that potentially would generate output worth an estimated £15 million in the East Ayrshire and Dumfries and Galloway economies. The manufacturing and construction activity will create or support around 23 full time permanent equivalent jobs within East Ayrshire and Dumfries and Galloway from direct, indirect and induced effects.

9.5 Taking all matters into account it is considered that the potential benefits to be accrued from the proposed development do not in this instance outweigh the significant cumulative impacts on the landscape character and visual amenity that would result from the proposed Kyle Wind Farm in the area in which it would be located.

10. RECOMMENDATIONS

10.1 It is recommended that the Council formally objects to the proposed development on the following grounds:

(1) The Council considers that the proposed development would result in significant skyline disruption from most locally important vantage points and would therefore be contrary to the provisions of Policy E1(E) of the approved Ayrshire Joint Structure Plan.

(2) The Council considers that the proposed Kyle development would cause unacceptable cumulative landscape and visual impacts on the wider landscape within which the development is located, taking cognisance of wind farm development (existing and proposed) and existing opencast coal extraction developments in the same locality. The proposal is therefore considered to be contrary to the provisions of Policies E10(B) and E11(B) of the approved Ayrshire Joint Structure Plan.

(3) The proposed Kyle development, although not lying within a Sensitive Landscape Character Area, will be situated very close to the boundary of that designated area which extends along the Doon Valley to Loch Doon. The cumulative visual impact of the proposed wind farm with the existing and proposed turbines at Windy Standard would erode the natural beauty of the designated area through the stringing of turbines across valued panoramas.

(4) The Council considers that the scale of the proposed Kyle development, in providing a generating capacity that would meet one sixth of the Scottish Executive's renewable energy 2010 target places a disproportionate burden on the local communities in East Ayrshire in satisfying the energy needs of the wider community. This

is of particular relevance when considering the contribution already made by East Ayrshire in terms of existing renewable energy production and also in terms of the contribution though the production of opencast coal with consented reserves being greater than that of any local authority area in the UK.

It is further respectfully requested that the Scottish Ministers take account of the terms of the issues and comments made in Paragraph 7.6 of this report in relation to the Ayrshire Joint Structure Plan.

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

10.3 In the event that the Scottish Ministers are minded to grant consent for the Kyle Wind Farm development that the conditions listed in Appendix 1 of this report 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.

Alan Neish
Head of Planning, Development and Building Standards

31 January 2006
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 (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. The Kyle Wind Farm Environmental Statement and Addendum
8. NPPG 6: Renewable Energy
9. PAN 45: Renewable Energy Technologies

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 555481.

Implementation Officer: Alan Neish

APPENDIX 1

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

1. The imposition of a negative suspensive condition to ensure that no works are undertaken on site until the developer has satisfied Glasgow Prestwick Airport and National Air Traffic Services (En-Route) plc that matters relative to radar impact have been fully resolved.
2. The submission of a detailed Habitat Management Plan for the development site prior to works commencing on site.
3. The submission of a detailed Forest Design Plan showing detailed restocking proposals prior to works commencing on site.
4. The establishment of a Habitat Management Support Group to include relevant stakeholders and representatives of East Ayrshire and Dumfries and Galloway Councils.
5. The submission of a detailed Mitigation Management Plan and the requirement for formal monitoring and auditing of mitigation proposed. This should be secured through the appointment of an independent monitoring officer to advise East Ayrshire and Dumfries and Galloway Council on the effectiveness of mitigation with the cost of this being borne by the developer.
6. The submission of a method statement for the construction of new roads, upgrading of existing roads and reinstatement of any road sections and their edges, the component storage area, the excavated areas for underground cables and for the areas of disturbed ground around the turbine bases.
7. The details of the design, finishes, orientation, screen fencing and landscaping of any buildings including substations.
8. The details of the surfacing and fencing of temporary compounds.
9. The exact colours and finishes of the turbines.
10. The decommissioning of the wind farm at the expiry of 25 years from the date any approval by the Scottish Executive unless a further application is submitted and approved.

11. The dismantling and removal from the site of all wind turbines, ancillary equipment and buildings following decommissioning and restoration of the site within 6 months of decommissioning.
12. The dismantling and removal from the site of any turbine which fails to produce electricity supplied to a local grid for a continuous period of 6 months and thereafter the site restored.
13. The site shall not be lit without prior approval of the Council as Planning Authority.
14. No symbols, signs, logos or other lettering to be displayed on turbines or other buildings or structures.
15. Prior to any works commencing on site, a Traffic Management Plan should be agreed in writing with the relevant Roads Authorities. This plan should include a full structural assessment of minor routes.
16. The commitment of the developer to a regime of ongoing maintenance for access roads over the construction period must be agreed between the applicant and the Roads Authorities prior to commencement of any work on site.
17. The agreement of the developer to subscribe to a Transportation Protocol for construction traffic which would include agreements on routing, timing, marking of vehicles, driver behaviour, wheel washes at site accesses etc. with the applicant being required to record any breaches of the Protocol.
18. During the construction period the applicant will be required to meet the cost of above average maintenance expenditure within the public road boundary over the construction period and at the end of the period to make good any outstanding damage resulting from the concentration of heavy traffic associated with the construction works to the satisfaction of the relevant Roads Authorities.
19. The submission of detailed drainage proposals, the provision of required specific Construction Method Statements, the undertaking of flow surveys on watercourse from which water abstraction is to undertaken and full details of proposed river crossings, all as indicated in the consultation letter from SEPA dated 10 January 2005.
20. The undertaking of appropriate electro-fishing surveys as indicated in the consultation letter from the Ayrshire Rivers Trust dated 11 July 2005.
21. The implementation in full of the modifications and conditions required by Scottish Natural Heritage in terms of the consultation letter dated 15 November 2005.

22. The submission of a Written Scheme of Investigation, setting out the details of proposed archaeological mitigation in relation to the proposed wind farm site.

23. The setting up of an appropriate Community Fund as detailed in the applicant's submission for the benefit of local communities affected by the proposed development.