

EAST AYRSHIRE COUNCIL

SPECIAL DEVELOPMENT SERVICES COMMITTEE: 28 NOVEMBER 2006

PROPOSED ERECTION OF 85 WIND TURBINES AND ASSOCIATED WORKS COMPRISING PERMANENT MONITORING MASTS, BORROW PITS, TEMPORARY SITE COMPOUNDS, CONCRETE BATCHING PLANT, ELECTRICAL SUBSTATIONS, 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

EXECUTIVE SUMMARY

1. DEVELOPMENT DESCRIPTION

1.1 The amended Kyle Wind Farm project now promotes the construction of 85 horizontal axis wind turbines, each with a 3MW maximum rated generating capacity. This represents a reduction of 10 turbines under the scheme presented to committee in March 2006. It is proposed to construct 30 turbines in the North Kyle area (no change in numbers) and 55 turbines in South Kyle (a reduction of 10 turbines). A total of 7 turbines located within South Kyle will lie within Dumfries and Galloway. The 10 turbines that have been removed from South Kyle were all located within East Ayrshire. The total number of turbines proposed in East Ayrshire is therefore 78.

1.2 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. 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.

1.3 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 reinforced concrete gravity structure in the majority of installations this being entirely beneath the ground at depths of 2.5 – 3 metres. It is noted that some turbines are to be situated in areas that are designated for future opencast coal mining in North Kyle. In these instances the nature of the foundations cannot be determined for these locations until detailed information

is available on the existing substructure conditions and the nature of backfilling in this area. 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.

1.4 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 now 6 proposed access points to the site (previously 5 were proposed), 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;
- Off the B7046 Skares to Sinclairston road by upgrading the existing forest access road through the former Piperhill opencast site for general deliveries; and
- Off the A713 just north-west of Dalmellington utilising the existing access road that was the former access serving the Chalmerston opencast coal site, for use by general construction traffic and delivery of wind turbine components. This represents an amendment to the previously considered scheme.

(ii) Internal Roads – for the construction of the turbines and subsequent servicing requirements approximately 49 km (30.4 miles) of new site roads would be required (a reduction of 10 km due to deletion of 10 turbines) together with 49 km (30.4 miles) of upgraded existing Forestry Commission roads. 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. Due to the deletion of the 10 turbines and following a re-appraisal of foundation requirements and access construction, it is estimated that some 475,000 m³ of rock aggregate would be required for the project. This represents a significant

reduction from the estimated 1.25 million m³ previously estimated for the Kyle 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 revised estimated quantity of rock aggregate required and indeed the size of the proposed borrow pits should now be smaller in area. The ES explains that the 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.

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(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. Scottish Power will require to make a separate application under the Electricity Act 1989, s.37 to the Scottish Ministers and this is likely to be the subject of further environmental impact assessment. However it is known that there is a potential for a new transmission line to be constructed between Coylton and New Cumnock with the purpose of providing grid access to a number of

proposed wind farm developments in East Ayrshire, South Ayrshire and Dumfries and Galloway, including the Kyle project.

(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 masts 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. In an amendment to the previously considered scheme, the permanent monitoring mast proposed in South Kyle has been relocated and now will lie within Dumfries and Galloway rather than on the previous location within East Ayrshire. The SEI states that the position of both of these masts has changed although the layout plan for North Kyle does not show any revised position for the monitoring mast.

1.5 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 procure 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.

1.6 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.

1.7 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.

1.8 The Section 36 application is accompanied by a comprehensive Environmental Statement (ES) including the Addendum and the submitted SEI 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. The SEI responds to a number of matters raised by consultees and third parties and provides environmental information which updates or revises that in the ES and Addendum. In particular it provides an updated Peat Stability Assessment, an updated Landscape and Visual Assessment relative to the reduced number of turbines, background noise surveys undertaken and the noise Assessment updated and further fisheries survey work has been undertaken

1.9 The applicant states that 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.

1.10 In terms of socio-economic benefit, the applicant estimates 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. Further information in this regard is provided in section 9 of the report.

1.11 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 approximately £300,000 per annum directed towards the fund. Further clarification on this is given in section 9 of the report.

1.12 In summary, the proposed amendments to the Kyle project consist of the following elements:

- The deletion of five turbines that both SNH and Historic Scotland had objected to or raised concerns regarding their location;
- The deletion of five turbines to address sky lining concerns raised by this Council;
- A modification of the layout of site access roads resulting from the reduced number of turbines;
- A revision to the position of operational wind monitoring masts; and
- The introduction of a new site access.

2. RECOMMENDATIONS

2.1 It is recommended that the Council formally objects to the proposed development, and recommends refusal of the application, 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 1999.

(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 1999.

(3) In the absence of any technical solution to adverse impact on radar installations and the consequent outstanding objections from Glasgow Prestwick Airport and NATS (En-Route) plc, the Council considers that the proposed Kyle development could have a significant adverse impact on the operational requirements of Glasgow Prestwick Airport, and consequently the proposal would not conform to the provisions of Policy E11(E) of the approved Ayrshire Joint Structure Plan 1999.

(4) 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.

(5) The proposed Kyle development does not fall within the Preferred Areas of Search as identified with the Key Diagram of the Finalised Ayrshire Joint Structure Plan 2006 and the proposal would therefore not conform to the provisions of Policy ECON7(A) which directs large scale wind farm developments to these areas of search which have been identified primarily on landscape capacity assessment and as areas with transmission grid access.

(6) In the absence of any technical solution to adverse impact on radar installations and the consequent outstanding objections from Glasgow Prestwick Airport and NATS (En-Route) plc, the Council considers that the proposed Kyle development could

have a significant adverse impact on the operational requirements of Glasgow Prestwick Airport, and consequently the proposal would not conform to the provisions of Policy ECON7(B) of the Finalised Ayrshire Joint Structure Plan 2006.

2.2 It is further recommended that the Council expresses its strong concerns to the Scottish Ministers that the scale of the proposed Kyle development, in providing a generating capacity that would meet a significant proportion 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.

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

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

3. SUMMARY OF ANALYSIS

3.1 As indicated in section 6 of the report, the Section 36 application and the related application for deemed planning permission are not considered to be in accordance with the development plan and therefore should only succeed if material considerations indicate otherwise. As is indicated at Section 7 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application in terms of national policy, planning advice and the majority of consultees. However the proposal is considered to be contrary to the provisions of Policy ECON7(A) and ECON7(B) of the Finalised Ayrshire Joint Structure Plan 2006 which is considered to be a significant material consideration as it represents the most up to date position of the three Ayrshire authorities in respect of large scale wind farm developments. The proposed development further lacks the support of the Dalmellington Community Council and a significant number of members of the public within the close local community.

3.2 The proposed Kyle Wind Farm development as amended is considered to be contrary to Policies E1(E), E10(B), E11(B) and E11(E) of the approved

Ayrshire Joint Structure Plan 1999. Furthermore in 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.
- the impact of the turbines on radar performance and other air safety considerations.

3.3 It is considered that the scale of the proposed development, in providing a generating capacity that would meet a significant portion 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 through the production of opencast coal with consented reserves being greater than that of any other part of the UK.

3.4 It is recognised that the proposed development would result in potential 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 significant benefits accruing from the construction programme that potentially would generate substantial local output in the East Ayrshire and Dumfries and Galloway economies together with the proposed and potential socio-economic benefits described in detail in Section 9 of this report.

3.5 Taking all matters into account including the additional representations made by the applicant, it is considered that the potential significant benefits which are likely to accrue from the proposed development do not in this instance outweigh the significant adverse cumulative impacts on the landscape character and visual amenity that would result from the proposal (as amended by the SEI 2006) in the area in which it would be located; and, in addition, the potential adverse impacts on the current and future operational

efficiency, safety requirements and commercial interests of Glasgow Prestwick Airport have not been shown to be capable of successful mitigation.

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Report by Head of Planning, Development and Building Standardss

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for the reconsideration 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 as now amended.

2. BACKGROUND INFORMATION

2.1 The Scottish Ministers are responsible, the Electricity Act 1989, s. 36 for the authorisation of any new electricity generation scheme with a generation capacity in excess of 50 Megawatts (MW). As the current amended proposal for the Kyle Wind Farm project has a maximum installed capacity of 255 MW (previously 285 MW) , East Ayrshire Council has been formally consulted by the Scottish Ministers in terms of the Electricity Act 1989, s. 36 and Sch. 8 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 is within the jurisdiction of 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 Sch. 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 application as submitted; or

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

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 the Town and Country Planning (Scotland) Act 1997, s.57. A separate application for planning permission would not therefore be required for the proposed development.

2.3 The 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. Primarily it reduced 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 Craigenkillan 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 On 08 March 2006, a full report on the Kyle project was submitted to the Development Services Committee at which time it was agreed to formally object to the Kyle project and the Scottish Ministers were advised of this view in a letter dated 09 March 2006. A copy of the previous report to committee is attached as Appendix II to this report and as some aspects of the previous report remain unchanged by the proposed amendment, this present report should be read in conjunction with the previous report.

2.6 As a consequence of this formal objection by the Council, a Public Local Inquiry (PLI) was called in terms of Section 62 and Schedule 8 of the Electricity Act 1989. At a pre-inquiry meeting on 25 July 2006, the applicant declared its intention to make further amendments to the Kyle project. In this regard, the applicant submitted Supplementary Environmental Information (SEI) to the Scottish Ministers on 29 September 2006 while at the same time sending a formal consultation on this amendment and supplementary information to this Council and other consultees for further consideration. **This amendment primarily consists of a reduction in the number of turbines from 95 to 85 with consequential reductions to access track lengths required and other infrastructure**

2.7 This report provides information on the proposed amendments to the Kyle project and an update on the consequences of these changes in relation to environmental impacts. The further view of the Committee in respect of the amendments proposed by the applicant will be forwarded to the Scottish Ministers and may result in a revised Statement of Case being forwarded to the Scottish Executive Inquiry Reporters Unit for consideration in the forthcoming PLI which is scheduled to commence on 16 January 2007.

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 and 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 by the Supplementary Environmental Information 2006):** The amended Kyle Wind Farm project now promotes the construction of 85 horizontal axis wind turbines, each with a 3MW maximum rated generating capacity. This represents a reduction of 10 turbines under the scheme presented to committee in March 2006. It is proposed to construct 30 turbines in the North Kyle area (no change in numbers) and 55 turbines in South Kyle (a reduction of 10 turbines). A total of

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(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 masts 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. In an amendment to the previously considered scheme, the permanent monitoring mast proposed in South Kyle has been relocated and now will lie within Dumfries and Galloway rather than on the previous location within East Ayrshire. The SEI states that the position of both of these masts has changed although the layout plan for North Kyle does not show any revised position for the monitoring mast.

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 procure 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 (ES) including the Addendum and the submitted SEI 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. The SEI responds to a number of matters raised by consultees and third parties and provides environmental information which updates or revises that in the ES and Addendum. In particular it provides an updated Peat Stability Assessment, an updated Landscape and Visual Assessment relative to the reduced number of turbines, background noise surveys undertaken and the noise Assessment updated and further fisheries survey work has been undertaken

3.13 The applicant states that 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 estimates 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. Further information in this regard is provided in section 9 of the report.

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 approximately £300,000 per annum directed towards the fund. Further clarification on this is given in section 9 of the report.

3.16 In summary, the proposed amendments to the Kyle project consist of the following elements:

- The deletion of five turbines that both SNH and Historic Scotland had objected to or raised concerns regarding their location;
- The deletion of five turbines to address sky lining concerns raised by this Council;
- A modification of the layout of site access roads resulting from the reduced number of turbines;
- A revision to the position of operational wind monitoring masts; and
- The introduction of a new site access.

4. CONSULTATIONS AND ISSUES RAISED

4.1 Additional consultations have been carried out by this Division and by the Scottish Executive, Enterprise and Life Long Learning Department (Consents and Emergency Planning Unit). Re-consultation has been limited to those consultees having a significant interest in the amended proposals and the responses received in some instances are summarised for the purposes of this report. The full responses received are available for inspection as background papers. It should be noted that at the time of writing this report, a number of consultation responses have not been received. Additionally, unless where superseded by consultation responses below, other consultations remain as reported in the previous report to committee.

4.2 East Ayrshire Roads and Transportation Division has no objections in principle to the additional access point proposed as this would give greater flexibility in terms of distribution of construction traffic. The Division welcomes the significant reduction in potential construction vehicle movements thereby reducing the traffic impact on the local highway infrastructure. Comments raised previously, however, remain pertinent to the current proposal.

Noted.

4.3 Glasgow Prestwick Airport (GPA) states that the amendments made to AMEC Wind Energy's proposal as reflected in the SEI do not address GPA's concerns with the proposed development but rather appear to concentrate on

addressing other objector's issues. There is no update to the aviation chapter of the ES. Accordingly GPA is proceeding on the basis that the applicant accepts that the amendments to the proposal do not address their concerns. As such GPA's position on this proposed development remains one of objection "on the basis that the proposal would adversely affect air safety and the economic operation of the airport, as a technical solution to the radar issues is unlikely to be forthcoming", this remains the case.

While GPA has had further discussions with the applicant, they have not reached any agreement pursuant to which they would be prepared to remove their objection. In their letter of 07 December 2005, GPA set out that it would be prepared to remove its objection **only** if the following conditions were met

1. A technical solution to the problem of radar clutter caused by the proposed 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 AMEC Wind Energy's expense;
6. GPA and AMEC Wind Energy enter into a binding legal agreement and any necessary supplementary agreements which enshrine AMEC Wind Energy's above obligations to GPA;
7. A negative suspensive provision to the effect of paragraphs 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;
8. The Section 75 Agreement to be entered into between EAC and AMEC Wind Energy prior to the issue of any Section 36 Consent reflects as appropriate the effect of paragraphs 1-5 above.

GPA remains open to any further suggestions for technical solutions that AMEC Wind Energy may put to them, but to date, none of their proposed solutions display sufficient certainty or analytical basis to justify the removal of their objection.

It is recognised that Glasgow Prestwick Airport is a significant economic generator for Ayrshire, not only in respect of its

passenger and air freight operations, but also in the associated Prestwick Aerospace Park.

On reliable advice from GPA it is considered that the proposed wind farm development at Kyle could impact on the safe, efficient and sound commercial operation of GPA in the absence of technical solutions to the problem of radar clutter. In this regard it is considered that the precautionary principle should be applied in that no development should take place until it can be clearly demonstrated that the Kyle project will have no adverse impact on the current and future operational efficiency, safety requirements and commercial interests. It is therefore considered that a formal decision on the Kyle project is premature at this time and that EAC's objection should remain standing.

4.4 National Air Traffic Services (En-Route) Plc (NERL) has not yet responded to the consultation letter. However, it is understood that NERL maintains its outstanding objection to the Kyle project as outlined in the previous report to committee. Furthermore it appears that NERL has also requested to be represented at the forthcoming PLI as a Relevant Party in support of its objection. Essentially NERL requests that until such time as AMEC can guarantee that the risks to the safe and efficient control of air traffic have been addressed and NERL has removed its objection, planning approval for the wind farm should be withheld.

Comments as per 4.3 above.

4.5 Dalmellington Community Council has not responded to the consultation letter at the time of writing this report.

Noted.

4.6 New Cumnock Community Council has not responded to the consultation letter at the time of writing this report. However it should be noted that since the presentation of the report to committee on 08 March 2006, at which time NCC made a 20 page submission indicating in detail its objections to the proposed development, this objection has now been formally withdrawn and the NCC will be speaking in support of the Kyle project at the forthcoming PLI.

Noted.

4.7 Scottish Natural Heritage indicates that its response should be read in conjunction with its letters of 29 December 2004 and 26 August 2005. SNH objects to the development unless it is made subject to conditions, modifications, and legal agreements, which would overcome its concerns, which are not only set out in it's the letter of 26 August 2005 but also as follows:-

(i) Additional Condition:

The monitoring and mitigation measures detailed in Chapter 25, Section 25.8 of the SEI should be made a condition of any consent to offset the impacts of the development upon fisheries to an acceptable level. The mitigation package should be finalised in consultation with the Local Authority in liaison with SNH.

A condition can be attached to any consent granted to ensure that such monitoring and mitigation measures are implemented in accordance with the requirements of SNH.

(ii) The SEI 2006 considers still further amendments made to the Kyle proposal. It also updates the information provided in the previous documents insofar as matters have changed or progressed since their submission. SNH has reviewed the additional information supplied within the SEI. Its position to the development has not fundamentally changed, as conditions are still required to offset the potential impacts of the development upon the natural heritage to an acceptable level, but SNH does not object in principle to a wind farm at this location. SNH has reviewed the position contained in their response dated 26 August 2005 in light of the revised layout and the supplementary environmental information and make the following comments:

They welcome the revision in the site layout, which reduces the visual impact of the development when viewed from Craigengillan's designed landscape to a level that is acceptable. Their 26 August 2005 response requested the removal of turbines 75 and 76 to reduce the visual impact of the development upon Craigengillan. As part of the revised layout in SEI 2006, turbines 75 and 76 (and others) have been removed. SNH does not object as it considers that the direct impacts on the visual amenity of Craigengillan, the indirect impacts on its landscape character, and the effects on the integrity of the Candidate Inventory status, are acceptable.

Noted.

Dumfries and Galloway Council (DGC) has reviewed the boundaries of their Regional Scenic Areas (RSAs) in a Technical Paper, including the Galloway Hills RSA and the Thornhill Uplands RSA. Each RSA has its own citation. SNH does not object as they do not consider that the integrity of the Galloway Hills RSA and the Thornhill Uplands RSA designation will be significantly reduced. The Sensitive Landscape Area (SLA) to the east, near New Cumnock, contains the operating Hare Hill wind farm and does not continue over the border into DGC. The SLA to the west, centred on Dalmellington, continues over the boundary into the Galloway Hills RSA. It contains a variety of landscape types (Foothills, Southern Uplands and Rugged Granite Uplands overlooking the scenic Loch Doon, and Upland River Valley of Upper Doon), together with settlements and Craigengillan designed landscape. SNH does not object as they do not consider that the integrity of these SLAs (or others in Ayrshire) will be significantly reduced.

Noted.

North Kyle windfarm (30 turbines) is located in the Foothills with Forest landscape type. SNH considers that this landscape type can accommodate some wind farm development where distinctive or iconic landforms are absent, as turbines would compete with and detract from such landmarks. This is demonstrated at Hadyard wind farm in South Ayrshire (operating, 52 turbines with external transformers), which is located in the Foothills / Foothills with Forest landscape. The North Kyle wind farm is likely to create a new “Foothills with Forest with Wind farm” landscape sub-type.

South Kyle wind farm (55 turbines) is located in the Southern Uplands with Forest landscape sub type. Again, SNH considers that this landscape sub type can accommodate some wind farm development. Windy Standard wind farm (operating) and Wether Hill wind farm (being constructed) are both in the Southern Uplands landscape of Dumfries and Galloway. The South Kyle windfarm is likely to create a new “Southern Uplands with Forest with Windfarm” landscape sub-type.

(iv) With regard to the conclusions about the likely significant and adverse impacts on landscape character and visual amenity reached in the text of the SEI 2006, SNH does not agree with some of the conclusions, which are expanded upon below.

Firstly, SNH disagrees with the conclusions in SEI 2006 about the nature of the effects of Kyle wind farm on the landscape character being ‘neutral’ (SEI 2006 page 61 para 59, final sentence; page 63, para 70, final sentence). SNH consider the effects will be adverse, as the wind farm will add uncharacteristic features (wind turbines). However, ‘adverse’ does not equate to non-acceptability. (For example, the existing Hare Hill wind farm turbines are now a defining characteristic of the town of New Cumnock.)

Secondly, SNH consider a new windfarm landscape sub-type may occur within at least 5 km from the outermost turbine within an area of landscape character (PAN 45). In this context they do not agree with SEI 2006 (page 61 para 59, and page 63, para 71), which considers that the windfarm will not be a defining characteristic of the landscape beyond 800 metres.

Thirdly, SNH advises that significant visual effects may occur at greater than ~7 km distance (SEI 2006 page 68 para 109). Based on evidence at the Harestanes windfarm PLI (in Foothills with Forest) and Clyde windfarm PLI (in Southern Uplands), they accept that significant visual effects may occur up to 15 km in some views (PAN 45).

Fourthly, SNH acknowledges that an assessment of the nature of the effects on visual amenity (i.e. the benefit people gain from the view) depends in part on personal preferences, as well as on professional judgement. SNH recognises that for those people who do find turbines intrusive, they can be a significant detraction from their enjoyment of the natural heritage. SNH considers the ‘neutral’ effects on visual amenity experienced by people (SEI Table 10.7 and Appendix 10.4), are more likely to be adverse where there is:

- a short-range viewing distance (under 5 km),
- a high proportion of the field of view (expressed in degrees) being occupied by the wind farm,
- a small scale landscape (or specific features) giving a strong contrast of scale to the proposed turbines, or
- an absence of other built development elements being visible, particularly vertical elements.

Comparisons between Hadyard (South Ayrshire) and Ardrossan (North Ayrshire) wind farms lead us to recommend that transformers should be located within the turbine towers (SEI 2006 para. 10.2.7). This results in a more simple / less confused image, as the ground flows unobstructed to the base of the turbine, and there are potentially half the number of objects breaking the skyline or standing out against the background hillside. However, SNH would not object if this were not included as a condition. Their meaning is unclear.

Noted.

(v) SNH does not object to the cumulative impact of Kyle wind farm, either with other operating and consented wind farms or with other forms of development such as open cast coal mining for the following reasons:-

- Kyle will appear to form an extension to the Windy Standard (operating) site and its extension, forming a larger cluster which includes Hare Hill (operating) and which would also include Afton (were it also to be constructed - application dated 2004).
- Kyle is 20 km east of Hadyard, and the potential cluster to the south of Hadyard comprising Lambdoughty, Mark Hill, Arecleoch wind farms. It will therefore not appear to be part of that Hadyard cluster. The proposed Dersalloch Wind Farm (application) would 'bridge the gap' between Hadyard with the Kyle / Windy Standard cluster.

It is noted that SNH does not appear to give any justification for raising no objections to the potential cumulative impacts with other forms of development such as opencast coal mining, of which there is significant activity in the B741 corridor between New Cumnock and Dalmellington. The response only seems to take account of the fact that the Kyle project will appear to form an extension to other wind farm developments and thus, supposedly, it offers no adverse cumulative landscape or visual impacts in the context of other wind farm developments. Notwithstanding this, SNH is further suggesting that if the proposed Dersalloch Wind Farm development is to "bridge the gap", it is acceptable to have groups or clusters of wind farm development strung out for a distance of 27 km between New Cumnock and Straiton (and beyond) with the contention that this would not raise any adverse cumulative landscape or visual impacts.

Since the application for Kyle windfarm was lodged in 2004, the pressure for wind farms within 60km of Kyle has continued apace. SNH is content that the operational, construction, consented, application and formal scoping sites shown on Figure 10.14 are broadly accurate to the date of the pre-Inquiry meeting in July 2006.

Noted.

(vi) The SEI provides information on the fishery interest within the development footprint. It confirms that although there are a number of tributaries and burns within the site with suitable habitat, many of them have little or no fish interest. The impediment of fish movements from poorly designed culverts, artificial dykes and waterfalls appear to be the significant factors in the restriction of fish activity within the development site. The SEI also highlights acidification issues related to both afforestation and underlying geology, and pollution from disused mineral working as additional contributing factors. There are however four main burns within the site that are of some significance for brown trout and salmon, one of which, the River Nith supports populations of juvenile salmon.

Construction work has the greatest potential to adversely affect existing and future fish populations within and downstream of the wind farm area. SNH notes the mitigation proposals within Chapter 14 "Hydrogeology and Hydrology" and Chapter 25 "Fish Populations and Fisheries" of the SEI and confirm our agreement that these additional mitigation measures, in combination with those already identified in the 2005 addendum in relation to forestry and construction, will offset the likelihood of any adverse effects occurring upon freshwater habitats and species during this period. Indeed the habitat and culvert enhancement measures proposed within Chapter 25 of the SEI will provide positive benefits for the majority of fish populations within the relevant watercourses. SNH therefore recommend the monitoring and mitigation measures detailed in Chapter 25, section 25.8 of the SEI should be made a condition of any consent, as previously indicated in our 26 August 2005 response (bullet point a).

A condition can be attached to any consent granted to ensure that such monitoring and mitigation measures are implemented in accordance with the requirements of SNH.

(vii) SNH has reviewed the additional information provided by the applicant within chapter 5 and Appendix 5.1 of the SEI. The information supplied confirms peat stability within sampled areas. However as was previously indicated in our 26 August 2005 letter, the majority of the wind farm site still remains to be surveyed due to the afforested nature of the site. Consequently although the SEI contains a thorough assessment of peat stability within the sampled areas, it remains SNH's position that further survey and assessment work are required in those areas currently not surveyed. Consequently SNH maintain our requirement for further survey works to be undertaken as per 'Condition 9' within our 26 August 2005 response.

Noted.

(viii) In summary, SNH does not object to the development where the conditions identified in these letters are appended to any planning consent. The East Ayrshire Council Planning Report for this application confirms the applicant's willingness to accept SNH's requested conditions. SNH requests that the Reporter considers the issues raised in each letter as part of his review of the application.

Noted.

(ix) In conclusion, SNH states that the proposed development as currently submitted is likely to have adverse impacts on the natural heritage interests as detailed in its responses dated 29 December 2004 and 26 August 2005 and as supplemented above with their comments on SEI 2006. These impacts can be reduced to a satisfactory level by the use of conditions/ modifications and agreements. **Should the application not be made subject to the requested conditions/ or legal agreements then SNH's position should be considered an objection.**

Noted.

4.8 The Royal Society for the Protection of Birds (Scotland) does not object to this proposal (see our response of 4th August 2005). Although they do not object to the application, RSPB is disappointed that the opportunities for open ground habitat creation have been missed at this site and they are disappointed that original proposals for extensive habitat management to compliment the neighbouring wildlife sites have been reduced. RSPB would like to take this opportunity to reiterate the need to establish a habitat management group (HMP) with clear roles and responsibilities. Implementation of a HMP and monitoring programme will be crucial in ensuring that suitable management is in place around turbines to act as effective mitigation. The RSPB therefore requests that the following is in place, to the satisfaction of the Local Authority, SNH and RSPB, before construction commences:

1. A Habitat Management Group, with roles and responsibilities formalised through a condition of consent or a section 75 agreement
2. A Habitat Management Plan covering the duration of the operation of the wind farm; and
3. A pre and post construction bird and vegetation monitoring programme.

A condition can be attached to any consent granted to ensure that the requirements of RSPB are met in respect of the stated matters.

4.9 The Scottish Environment Protection Agency has not responded to the consultation response at the time of writing this report.

Noted.

4.10 MOD Defence Estates Safeguarding has no concerns regarding the revised layout provided that the turbines do not exceed 125 metres blade tip height.

Noted.

4.11 Historic Scotland comments relate to the revised turbine layout and its impact on the Craigengillan candidate Designed Landscape and its associated Category A listed buildings. HS welcomes the revisions made to the proposed layout and in particular the removal of turbines 39, 51, 59 and 75 in response to earlier comments. HS is now content that views from the main house have been substantially protected. Whilst turbines will continue to be seen as an element of some of the panoramic views from the high points of the landscape, HS feels that the designed landscape is sufficiently powerful to accommodate the impact. Consequently, in light of these changes HS is now content to withdraw its objection to the development.

Noted.

4.12 East Ayrshire Council Environmental Health Division, in respect of the updated noise assessment, agrees with the applicant's contention in paragraph 87 that in practice noise levels exhibited by the wind farm are likely to be below predicted noise levels. The use of the maximum sound power level figure in Table 21.2 at 9m/s wind speed has resulted in a worst-case scenario being considered. In practice the variable wind speeds and the reducing noise levels up to brake-off wind speed will mean that there will be only relatively short periods where the worst-case sound power level will be generated (between 7 and 9m/s). At lesser or greater wind speeds, and in different wind directions, the noise levels will be reduced by at least 2dB and at minimum operating speeds by 10dB (which in terms of human perception is half as loud).

The Division further notes that the predicted noise levels which exceed the upper daytime noise limit at Brownhill do so by a measurable but indiscernible level and again only when wind speed and direction combine to give the worst-case conditions. At Upper Beoch the upper noise limit is not predicted to be breached at all and is above the lower limit by 3dB (3dB is measurable but only just discernible to the human ear). Again, these figures relate to worst-case conditions where wind speed is between 7 and 9 m/s and the wind direction is directly towards Upper Beoch from the wind farm. There is no doubt that from time to time the wind farm would be audible at sensitive receptors, however the noise levels from the wind farm are likely to be below the underlying background noise levels.

Noted.

5. REPRESENTATIONS

5.1 No third party representations on the amended proposals and SEI have been received directly by the Council. It is understood that the Scottish Executive, Enterprise and Life Long Learning Department (Consents and Emergency Planning Unit) has received a significant number of third party representations in respect of the amended proposal, although the exact number and contents of these representations is not known by the Council at this time.

5.2 Since the presentation of the original report to the Development Services Committee on 08 March 2006, information has been received from a third party relative to the potential risk of peat slide and an independent report carried out on behalf of this third party challenging the accuracy and methodology of the Noise Section of the original ES and Addendum

The Council's Environmental Health Division has commented on the independent report which makes some reference to the need for the effects of noise to be considered at empty properties in the vicinity, arguing that these properties may be occupied at some point in the future. Whilst this is, of course, a possibility and it would be incumbent on this Division to investigate any complaint, it would have to consider the meaning of "locality" in investigating a complaint and would be able to apply some bias in favour of the pre-existing development. It is considered therefore that no consideration need be given to noise levels at uninhabited properties. It is considered entirely reasonable to progress a Noise Impact Assessment on the basis of occupied properties

The Division further states that its previous response noted a noise level of 36dB LA90 outside the nearest noise-sensitive dwelling. Whilst this is slightly above the normally-recognised 35dB limit, in audibility terms there is no discernible difference between the two levels. The Division therefore suggests that 36dB is acceptable as, allowing for a 10dB reduction for glazing open for ventilation, the WHO recognised standard of 35dBA for preserving sleep is easily met.

It is further understood that the independent report on behalf of the objector makes reference to a lower noise limit for turbine noise during the daytime. It is accepted that there is a reasonable case for this, however again there is a counter-argument in that, as the objector himself refers to, at certain times there are other contributors to the noise environment due to a "tunnelling effect" and as such noise from opencast mining etc. can add to the noise levels experienced.

It is the opinion of this Division that the setting of an absolute noise level at the nearest noise-sensitive dwelling imposes a duty on the applicant to ensure that the noise generated by the

development does not breach any Consent given, and any breach of this limit can be acted against by the Planning Authority. It would thereafter be entirely a matter for the applicant to comply with such a condition by whatever means deemed appropriate. Following installation it would be for the local authority either to introduce, or have introduced by the developer, a monitoring regime to ensure the permitted levels were adhered to. It is further suggested that in the event of any monitoring regime being carried out by the local authority the costs of such monitoring should be borne by the developer. Results of monitoring carried out by the developer should be submitted to the local authority for perusal.

It should be noted that the deficiencies highlighted by the objector's independent report appear to have been addressed through the updated Noise section in the SEI. The updated assessment concludes that the predicted noise levels at the nearest residential locations to the Kyle project site meet the night time limit under all conditions. Additionally the updated assessment also shows that the predicted noise levels meet the upper daytime noise limit at all the nearest residential locations. (See also Section 4.12 above)

5.3 The SEI also provides an updated Peat Stability Assessment, this having been provided by the applicant at the request of the Scottish Executive. The position of SNH in respect of this assessment is given in section 4.7 above.

Noted.

5.4 As indicated in Section 4.6 above, New Cumnock Community Council has withdrawn its previous objections to the proposed Kyle project and now supports the development of the wind farm and intends to speak in support of the development at the forthcoming PLI.

Noted.

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.

Although it is accepted that the removal of 10 turbines from South Kyle has lessened the visual disruption from a number of viewpoints as identified in the SEI, it remains the case that local views of the skyline would still be the subject of some visual disruption by this proposal at least 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 which are related to tourism and local recreational pursuits. It is considered that the proposed location 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. It is therefore legitimate to conclude that the proposal will be contrary to Policy E2 of the Structure Plan.

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.

It should be further noted that a formal planning application was submitted to this Division for consideration relating to an extension to the Chalmerston North Opencast Coal site (Ref. No. 06/0685/FL) for the extraction of approximately 1.02 million tonnes of coal by opencast methods. The application site extends to 280 hectares and it is noted that up to 10 turbines of North Kyle either lie within or immediately adjacent to the boundary of this application site. It is accepted that should this opencast development be approved by this Council, programming of operations (either opencasting development or wind farm development) could be such that the Kyle development does not sterilise coal reserves within the North Kyle development area. However, it further emphasises the cumulative impact of the Kyle development with opencast operations in this area. Operations on proposed opencast extension would take five year to complete from the date of commencement.

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 consideration B, comments are as paragraph 6.4 above. In respect of consideration E, it is considered that the proposed wind farm development at Kyle could impact on the safe, efficient and sound commercial operation of GPA in the absence of technical solutions to the problem of radar clutter. In this regard it is considered that the precautionary principle should

be applied in that no development should take place until it can be clearly demonstrated that the Kyle project will have no adverse impact on the current and future operational efficiency, safety requirements and commercial interests. It is therefore considered that a formal decision on the Kyle project is premature at this time.

With regard to considerations A, C, D, and F, it considered that there is no significant conflict with policy in respect of these matters.

East Ayrshire Local Plan

6.6 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 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 could result in positive benefits to habitat biodiversity. In this regard, the proposal would not conflict with the provisions of Policy ENV10(iii).

6.7 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. It is therefore legitimate to conclude that the proposal will be contrary to Policy ENV11.

6.8 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 SEI to the Environmental Statement and Addendum has produced a revised layout for the Kyle development that seeks to procure that the site design respects the local landscape characteristics of the area in which it is located insofar as is 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.

6.9 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 and previous committee report, some issues remain to be addressed and these could 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. However it is considered that there will be adverse cumulative landscape and visual impacts associated with the Kyle development as indicated elsewhere within this report, both on the rural area in which it is located and the adjacent Sensitive Landscape Character Area due to its proximity to it.

6.10 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 and Addendum, as updated by the SEI, 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 SEI has considered visual impacts and promoted the removal of 10 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;

The SEI promotes a revised layout to remove 10 turbines where visual impact was not considered acceptable, primarily in relation to impact on the Craigengillan candidate Historic Garden and Designed Landscape. The objection previously made by Historic Scotland in this regard has now been withdrawn as a result of the removal of inappropriately located turbines.

(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 remains significant with a total of 85 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 the 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. However, no such positive proposals for advancing the proposed wind farm as a tourism asset have been advanced.

It is noted that in terms of previous 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 e.g. the proposed outdoor/ education centre on Straiton Road, near Dalmellington for which outline planning consent has been granted.

- (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, Addendum and SEI 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 hills in the local area including Blackcraig and Cairnsmore of Carsphairn. The assessment also concludes that there will be significant

cumulative landscape and visual effects from the Windy Standard proposed extension. It is understood that this proposal has not been opposed by Dumfries and Galloway Council subject to the concluding of a Section 75 Agreement. It is understood that the proposed Windy Standard extension has not yet been considered by the Scottish Ministers at this time 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 turbines 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 some 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 project will be located on land, insofar as North Kyle is concerned, that is flanked to the west by the Chalmerston/Chalmerston North/Pennyvenie opencast mining complex and to the east by the House of Water Opencast site. In addition to this, a planning application has now been lodged for the proposed Chalmerston North Opencast Site extension. It is noted that approximately 10 turbines lie within the proposed extension application site although the SEI indicates that there are only up to 5 within the planning application site boundary.

These are other developments that have significant visual and landscape character impacts on 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 (existing and proposed) in the same locality, it is considered that approval of the Kyle development would result in unacceptable cumulative visual and landscape character impacts. This is of particular relevance when travelling along the B741 New Cumnock – Dalmellington Road where there are current visual and landscape impacts arising from the Greenburn, House of Water and Chalmerston/ Chalmerston North / Pennyvenie opencast coal

sites. The sites are highly visible from this route and additional cumulative impacts will occur along this route as a result of the Kyle development.

- (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.

Both Glasgow Prestwick Airport (GPA) and National Air Traffic Services (NERL) have maintained objections to the proposed development and both parties have previously 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. However, as indicated in the consultation response from GPA, the SEI does not address any of the concerns raised by either GPA or NERL. While GPA has indicated that it remains open to any further suggestions for technical solutions that AMEC Wind Energy may put wish to put forward, to date none of the proposed solutions display sufficient certainty or analytical basis to justify the removal of the GPA objection.

It is recognised that Glasgow Prestwick Airport is a significant economic generator for Ayrshire, not only in respect of its passenger and air freight operations, but also in the associated Prestwick Aerospace Park.

It is considered that the proposed wind farm development at Kyle could impact on the safe, efficient and sound commercial operation of GPA in the absence of technical solutions to the problem of radar clutter. In this regard it is considered that the precautionary principle should be applied in that no development should take place until it can be clearly demonstrated that the Kyle project will have no adverse impact on the current and future operational efficiency, safety requirements and commercial interests of GPA. It is therefore considered that a formal decision on the Kyle project is premature at this time, and EAC's objection should therefore be maintained..

6.11 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. The applicant has also stated that through working with the local authority and other agencies the unique opportunities offered by improved off road access and new routes will be fully investigated.

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 and the Finalised Ayrshire Joint Structure Plan 2006.

Consultation Responses

7.2 In taking cognisance of consultation responses made in respect of the there are no significant adverse comments received from a number of 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 Dalmellington Community Council that the proposed development will severely prejudice existing and proposed regeneration projects in the local communities. The outstanding objections from GPA and NERL are however significant in terms of potential impact on the safe, efficient and sound commercial operation of GPA in the absence of technical solutions to the problem of radar clutter. The significance of these objections would presume against the approval of the Kyle development.

Representations

7.3 No additional formal representations have been received in respect of the SEI but reference is made to previous representations received directly by this Council raising concerns in relation to landscape character and visual amenity impacts, both of 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. 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 255 MW represents a significant contribution to meeting renewable targets for Scotland. However, the FREDS Report demonstrates that the 2010 target has already been met. That is not to say that any further contribution may not be valuable, simply that it is not needed to reach the 2010 target.

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 PAN 45 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.

Finalised Ayrshire Joint Structure Plan 2006

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 to this aspect of policy. The new Ayrshire Joint Structure Plan 2006 has also now been approved by the other Ayrshire Authorities and was submitted to the Scottish Ministers on 14 June 2006 for approval. It is therefore considered that some weight should be attached to this policy as a material consideration. The finalised structure plan states that Ayrshire has significant renewable energy resources and is well placed to exploit its generation and use. The plan seeks to facilitate the development of renewable energy and energy saving within communities and act as an economic driver of local economies for the future. With regard to wind energy, the plan states that Ayrshire has above average mean wind speeds and as such is attractive for wind energy generation and, in particular, as a location for wind farm development. The Government has set targets for Scotland of 18% of electricity demand from renewable energy by 2010 and 40% by 2020. To achieve these targets at a local level a significant expansion in the number of wind turbines may be required. At the time of writing, the 2010 targets would be met if those projects in Scotland which have been permitted were built.

7.7 Given the Government's target and further aspirations, there is an onus to find wind farm locations that would contribute to the overall national supply, but this cannot be at the expense of the environment. The plan further states, however, that local benefits arising from wind farms can be important to the future economic regeneration of rural communities. To guide wind farm development in a manner that maintains landscape and biodiversity value and safeguards the operational needs of Glasgow and Glasgow Prestwick Airports, two areas of search for large scale commercial wind farm development have therefore been identified, these being South Carrick and Whitelee Forest. Policy ECON7(A) therefore directs development for large scale wind farms firstly to these Preferred Areas of Search as identified on the Key Diagram.

The new Structure Plan proposes a more pro-active and spatially specific stance in relation to large-scale wind farm developments than the criteria based approach of the current Ayrshire Joint Structure Plan 1999. The new policy seeks to guide developers, in the first instance, to the most appropriate areas through use of Preferred Areas of Search, backed up by a criteria based approach in areas outwith these. This is considered to provide more certainty and is felt to be a reasonable balance between being supportive to wind energy, while giving protection to other interests. The approach is consistent with NPPG 6 which confirms that "broad areas of search may in some circumstances be helpful" and that while such an approach can provide a general guide it "should not exclude development outwith these areas where they can be accommodated in a satisfactory manner". The Preferred Areas of Search have been identified primarily on landscape capacity assessment but are also in areas with transmission grid access. In this regard the Kyle development site does not fall within any Preferred Area of Search as identified in the Key Diagram.

In terms of Policy ECON7(B), 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 on 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.

It is also recognised that Glasgow Prestwick Airport is a significant economic generator for Ayrshire, not only in respect of its passenger and air freight operations, but also in the associated Prestwick Aerospace Park.

It is considered that the proposed wind farm development at Kyle could impact on the safe, efficient and sound commercial operation of GPA in the absence of technical solutions to the problem of radar clutter and related communications. In this regard it is considered that the precautionary principle should be applied in that no development should be permitted until it can be clearly demonstrated that the Kyle project will have no adverse impact on the current and future operational efficiency, safety requirements and commercial interests. It is therefore considered that a formal decision on the Kyle project is premature at this time. Notwithstanding the conflict with Policy ECON7(A), it is considered that the Kyle project could adversely impact on the operational requirements of GPA and thus conflict with Policy ECON7(B).

8. FINANCIAL AND LEGAL IMPLICATIONS

8.1 There are potential financial implications for the Council in coming to an amended view on this development. A Public Local Inquiry in terms of Section 62 and Schedule 8 of the Electricity Act 1989 has already been triggered following the decision of the Development Services Committee on 08 March 2006 to oppose the application for the construction of 95 Wind Turbines. Should the application as now amended be supported then the Council would require to advise the Scottish Executive Inquiry Reporters Unit of the Committee's decision and confirm whether or not the Council would still be a party at the PLI. Conversely, should the application as now amended be opposed and once again recommended for refusal then the Council would still require to advise the Scottish Executive Development Inquiry Reporters Unit of the Committee's decision and would require to confirm that the Council

would still be a party at the PLI. If the Council withdraws from the PLI, a claim for expenses could well be made by the applicant or Glasgow Prestwick Airport against the Council and would have a reasonable chance of succeeding. 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. SUPPLEMENTARY INFORMATION

9.1 The applicant provided commentary in respect of the original report due to be presented to the Development Services Committee on 08 February 2006. This is set out in the report to the Development Services Committee on 08 March 2006 and is not repeated here.

9.2 In terms of the Electricity Act 1989, Schedule 9 (3) states:

'PRESERVATION OF AMENITY AND FISHERIES: SCOTLAND

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

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

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

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

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

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

While it is accepted that with the submission of the Addendum and SEI to the Environmental Statement has resulted in significant improvements to the Kyle project in terms of environmental mitigation, it is considered that the proposed Kyle Wind Farm will still result in significant adverse visual and landscape character impacts as stated elsewhere within this report. As the applicant

also seeks deemed planning consent in terms of Section 57 of the Town and Country Planning (Scotland) Act 1997, the Kyle project also requires to be assessed in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 where it is provided that any determination (any that includes a deemed permission, as is sought in this case) shall be made in accordance with the development plan unless material considerations indicate otherwise.

10. CONCLUSIONS

10.1 As indicated in section 6 of the report, the Section 36 application and the related application for deemed planning permission are not considered to be in accordance with the development plan and therefore should only succeed if material considerations indicate otherwise. As is indicated at Section 7 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application in terms of national policy, planning advice and the majority of consultees. However the proposal is considered to be contrary to the provisions of Policy ECON7(A) and ECON7(B) of the Finalised Ayrshire Joint Structure Plan 2006 which is considered to be a significant material consideration as it represents the most up to date position of the three Ayrshire authorities in respect of large scale wind farm developments. The proposed development further lacks the support of the Dalmellington Community Council and a significant number of members of the public within the close local community.

10.2 The proposed Kyle Wind Farm development as amended is considered to be contrary to Policies E1(E), E10(B), E11(B) and E11(E) of the approved Ayrshire Joint Structure Plan 1999. Furthermore in 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.
- the impact of the turbines on radar performance and other air safety considerations.

10.3 It is considered that the scale of the proposed development, in providing a generating capacity that would meet a significant portion 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 through the production of opencast coal with consented reserves being greater than that of any other part of the UK.

10.4 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 significant benefits accruing from the construction programme that potentially would generate substantial local output in the East Ayrshire and Dumfries and Galloway economies together with the proposed and potential socio-economic benefits described in detail in Section 9 of this report.

10.5 Taking all matters into account including the additional representations made by the applicant, it is considered that the potential significant benefits which are likely to accrue from the proposed development do not in this instance outweigh the significant adverse cumulative impacts on the landscape character and visual amenity that would result from the proposal (as amended by the SEI 2006) in the area in which it would be located; and, in addition, the potential adverse impacts on the current and future operational efficiency, safety requirements and commercial interests of Glasgow Prestwick Airport have not been shown to be capable of successful mitigation.

11. RECOMMENDATIONS

11.1 It is recommended that the Council formally objects to the proposed development, and recommends refusal of the application, 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 1999.

(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 1999.

(3) In the absence of any technical solution to adverse impact on radar installations and the consequent outstanding objections from Glasgow Prestwick Airport and NATS (En-Route) plc, the Council considers that the proposed Kyle development could have a significant adverse impact on the operational requirements of Glasgow Prestwick Airport, and consequently the proposal would not conform to the provisions of Policy E11(E) of the approved Ayrshire Joint Structure Plan 1999.

(4) 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.

(5) The proposed Kyle development does not fall within the Preferred Areas of Search as identified with the Key Diagram of the Finalised Ayrshire Joint Structure Plan 2006 and the proposal would therefore not conform to the provisions of Policy ECON7(A) which directs large scale wind farm developments to these areas of search which have been identified primarily on landscape capacity assessment and as areas with transmission grid access.

(6) In the absence of any technical solution to adverse impact on radar installations and the consequent outstanding objections from Glasgow Prestwick Airport and NATS (En-Route) plc, the Council considers that the proposed Kyle development could have a significant adverse impact on the operational requirements of Glasgow Prestwick Airport, and consequently the proposal would not conform to the provisions of Policy ECON7(B) of the Finalised Ayrshire Joint Structure Plan 2006.

11.2 It is further recommended that the Council expresses its strong concerns to the Scottish Ministers that the scale of the proposed Kyle development, in providing a generating capacity that would meet a significant proportion 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.

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

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

**Alan Neish
Head of Planning, Development and Building Standards**

23 November 2006
HM/HM
FV

LIST OF BACKGROUND PAPERS

1. Formal Consultation Letters
2. Statutory Notices and Certificates.
3. Additional Consultation responses.
4. Development Services Committee Report on Kyle Wind Farm Proposal (08 March 2006).
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Finalised Ayrshire Joint Structure Plan (2006)
8. The Kyle Wind Farm Environmental Statement, Addendum and Supplementary Environmental Information.
9. NPPG 6: Renewable Energy
10. 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 including implementation of monitoring and mitigation measures detailed in Chapter 25, Section 25.8 of the SEI to offset the impacts of the development upon fisheries to an acceptable level. The mitigation package should be finalised in consultation with the Local Authority in liaison with SNH.

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.

24. The lodging of a Bond to secure the future restoration of the wind farm site.

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