

EAST AYRSHIRE COUNCIL

PLANNING COMMITTEE: 4 JULY 2014

13/0001/S36 - ERECTION OF 50 WIND TURBINES WITH A TIP HEIGHT OF UP TO 149.5M, TURBINE HARDSTANDINGS, CONNECTION COMPOUND, SUBSTATION COMPOUND WITH CONTROL BUILDING, 6 PERMANENT 100M HIGH MET MASTS AND APPROXIMATELY 56.6 KM OF SITE AND ACCESS ROADS (30.6 KM NEW, 26.0 KM UPGRADED).

SOUTH KYLE WIND FARM, EAST AYRSHIRE

APPLICATION BY VATTENFALL WIND POWER LTD

Report by Head of Planning and Economic Development

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/applicationDetails.do?activeTab=summary&keyVal=MRZK8LGF02400>

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The development proposes the following:

- 50 wind turbines of up to 149.5 metres to tip height, approximately 89.5 metres to hub height and a 113 metre rotor diameter with a hardstanding area, approximately 45m by 35m, and transformer at each turbine base;
- 56.6km of on-site access tracks, consisting of 30.6km of new tracks and 26km of upgraded track and 22 associated watercourse crossings;
- electricity substation compound with a control building and a network control building;
- wind farm connection compound and control building;
- 6 permanent wind monitoring masts;
- permanent welfare facility;
- on site underground cabling;

In addition to the above components of the operational wind farm, the construction phase proposals include:

- 929.9 hectares of forestry clearance, 751 ha in the initial 36 months
- 3 temporary construction compounds and including temporary concrete batching plants
- 2 temporary storage areas
- 8 potential borrow pits

1.2 The wind farm proposal comprises the erection of 50 three bladed turbines, computer controlled turbines, with an individual rating of up to 3.4 megawatts (providing a maximum total capacity of up to 170 megawatts). There are two proposed access points for construction traffic and abnormal loads, the northern access off the B741 at Meikle Hill and the southern access off the A731 at Campbells Hill. The turbine components abnormal loads will be delivered to Ayr harbour and use the A713 south towards the site. The applicant had previously intended to use the private access road, previously owned by Scottish Coal, to bypass Dalmellington to the northern site access on the B741. This option is no longer available since Scottish Coal went into liquidation, however the applicants have suggested that they are in negotiations with the new owners (OCCW (Chalmerston)) of the private access road.

1.3 Approximately 580,000 m³ of stone is estimated to be required for construction of the wind farm which will be sourced from the 8 onsite borrow pits. One of the key borrow pits, Borrow Pit 1 Meikle Hill (also referred to as Clawfin Quarry), is intended to be used both by the applicant for the construction of the wind farm and by Scottish Power for material for the construction of the Interconnector Power Line. Both companies have suggested that they have legal agreement with the Forestry Commission to use the quarry extension and it is expected that this will be on a phased basis, with the Interconnector coming first. The foundations for the turbines will require the excavation of any underlying peat and subsoil to expose the bedrock, with the excavated area subsequently capped with peat or soil. The proposed development includes the formation of approximately 30.6km of new tracks and upgrading of 26km of existing track. The applicant has noted it may be necessary to microsite elements of infrastructure up to a threshold of 50m, however, if required, this would be agreed in advance with specialist advisory bodies and within the terms of any consent.

1.4 The application promotes the following programme of construction and operation:

- a 36 month forestry felling period (starting 12 months prior to main construction period);
- a 30 month main construction period;
- a 25 year operational period;
- a maximum 18 months decommissioning period; and
- seeks consent overall for 28 years to account for construction and decommissioning of the project.

1.5 The proposal will require the felling of the coniferous forested area within the application site which amounts to approximately 929.9 hectares. Three temporary compounds will be required, providing site accommodation, concrete batching plant, parking, materials and small component storage and welfare facilities, each measuring 50 metres by 100 metres. One communication mast and two temporary Power Performance (PPM) masts are also proposed. Two further temporary storage areas, measuring 150 metres by 100 metres will also be required to provide large open storage areas for materials and turbine components. Six permanent lattice tower wind

monitoring masts, measuring 100 metres in height, are required to monitor the performance of the wind farm and meteorological conditions across the site. Onsite communications would be through fibre optic cable alongside main underground electricity cabling running adjacent too tracks across the site.

1.6 The proposed development will require a connection to the main electricity grid. It is intended that the onsite substation will step up the voltage for transmission to the wind farm connection compound, situated close to the northern site access on the B741 with in the current application site boundary. The grid connection from the wind farm connection compound does not form part of this application and will be subject to a separate design and consent process undertaken by the national Grid Company.

1.7 In terms of socio-economic benefit, the applicant indicates that beneficial effects have been identified during the construction phase for on-site employment and service provision to the local and wider economy. Although the applicant acknowledges that these are short terms and temporary. Some additional employment is proposed over the 25 year operation and maintenance period.

1.8 A number of recreation activities fall within the site boundary and will be temporarily disrupted during the construction period. These activities include fishing locations and a footpath, Core Path DS2.

1.9 The proposal has been the subject of pre-application consultation with the local community and other relevant stakeholders / interested parties. A Pre-Application Consultation Report accompanies the application that details the measures undertaken by the applicant to engage with the community, including a series of public exhibitions held in November 2011, June 2012, March 2013 and May 2013 in New Cumnock, Dalmellington, Carpsshairn and Patna which were attended by approximately 221 people. Door to door surveys and a telephone survey were also undertaken in 2012 and households within a 15km radius of the site were sent an information leaflet.

2. RECOMMENDATION

2.1 It is recommended that the Council formally objects to the Section 36 application for the reasons detailed on Appendix 1 of this report and;

2.2 It is recommended that should Scottish Ministers determine to approve the S36 application that the applicant enters into a legal agreement with East Ayrshire Council consistent with the Heads of Agreement detailed under Section 8.4 of this report and;

2.3 It is recommended that should Scottish Ministers determine to approve the S36 application that the Council enter into negotiations regarding appropriate planning conditions for the development and;

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

3. CONCLUSIONS

3.1 As indicated in section 6 of the report, the Section 36 application and the related application for deemed planning permission are not considered to be in accordance with the development plan. As is indicated at Section 7 of the report, there are material considerations relevant to this application; it is considered that these are not supportive of the application in terms of national policy, national planning advice, the EALWCS 2013 and the planning authority's landscape consultant. There remains outstanding objections from key consultees including NATs raising aviation concerns, Scottish Power Energy Networks requiring minimum separation distances from overhead power lines, and the Scottish Dark Sky Observatory stressing the additional light pollution, additional skyglow and lighting visible on imaging systems of any proposed turbine lighting required by the MoD. The significant level of third party objection, in particular the detailed objection by Dalmellington Community Council, raise valid points that require to be taken into account in the determination of the S36 application.

3.2 The proposed South Kyle wind farm development does not comply with policies ECON6, ECON7 parts (D), (E) & (G) and ENV1(A) and ENV1 (E) of the Ayrshire Joint Structure Plan 2007.

Furthermore the proposal does not comply with policies SD1 (i), (ii) and (iii), CS12 (ii) and (iv), CS14 (D), (E), (F) and (G); and ENV15 (i), (ii), (v) and (vi), and ENV16 (i) and (ii), and ENV17 (iv) of the East Ayrshire Local Plan 2010.

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

- presents unacceptable visual and landscape impacts in terms of the setting of the proposed wind farm within the immediate wider landscape and the significant adverse impacts on residential amenity
- presents unacceptable adverse cumulative impacts when considered by itself and in conjunction with the existing, authorised and proposed wind farms within the vicinity of the site resulting in significant adverse impacts on the amenity of nearby residential properties and on the landscape.
- presents an unacceptable impact on tourism, views from tourist routes and facilities.

- presents and unacceptable adverse impacts to unresolved primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at Prestwick Centre.

3.3 It is considered that the proposed development, together with other existing wind farm developments (existing and proposed) will provide a generating capacity that would contribute to the Scottish Governments renewable energy 2020 target.

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

- the potential developer contribution to the Council's Renewable Energy Fund;
- the benefits accruing from the significant investment that potentially would generate economic benefits and temporary employment opportunities in the East Ayrshire economy

3.5 Taking all matters into account the potential benefits to be accrued from the proposed development do not in this instance outweigh the significant adverse unacceptable visual impacts of the proposal on residential amenity and on the landscape.

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

CONTRARY DECISION NOTE

Should the Committee agree that the application be supported contrary to the recommendation of the Head of Planning and Economic Development, in terms of the principle of the proposed development, then the application would not require to be referred to Council as it would not represent a significant departure from Council policy.

Alan Neish

Head of Planning and Economic Development

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

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1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for the consideration of the Planning Committee under the scheme of delegation a formal consultation from the Scottish Ministers on an application made under Section 36 of The Electricity Act 1989 for a proposed wind farm development at South Kyle, Strathwiggan, Brownhills and Deughwater Forests on land to the east of Dalmellington and for the Planning Committee to take a formal view on the proposed development. The Section 36 application includes an application for deemed planning permission for the same development under Section 57(2) of the Town and Country Planning (Scotland) Act 1997.

2. BACKGROUND INFORMATION

2.1 The Scottish Ministers are responsible, under Section 36 of the Electricity Act 1989, for the authorisation of any new, or extensions to existing electricity generation schemes with a generation capacity in excess of 50 Megawatts (MW). The proposal for the South Kyle wind farm project has a maximum installed capacity total capacity of up to 170 MW and East Ayrshire Council has been formally consulted by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989.

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

- (i) offer no objections to the Section 36 application as submitted; or

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

2.3 The Section 36 application was lodged with the Scottish Ministers in August 2013 together with a comprehensive Environmental Statement as required under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000.

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

2.5 In October 2008, the Scottish Ministers refused consent for an 85 turbine wind farm at Kyle Wind Farm, following a Public Inquiry on the grounds that the proposal would have had an adverse landscape and visual impact and an adverse impact on aviation.

3. APPLICATION DETAILS

3.1 **Site Description:** The application site lies to the east of Dalmellington, is an area of upland commercial forestry and is located in a landscape characterised as Southern Uplands with Forestry. The site area is approximately 2402 hectares in total and lies to the south east of the B741, to the east of the A713. To the west of the site lies Dalmellington and Bellsbank, to the north is an area of open moorland, Loch Doon lies to the south west and to the east is the established Windy Standard wind farm.

3.2 Approximately two thirds of the site and 30 of the 50 turbines are located within East Ayrshire, the remaining 20 turbines are located in Dumfries and Galloway Council area. Also within East Ayrshire, both proposed access tracks, 4 borrow pits, 5 permanent wind monitoring masts, the electricity substation compound, one temporary site compound and concrete batching plant and one temporary storage area. The estimated total permanent land take of the proposed development including foundations, site access tracks and hardstandings (including substation compound) will be approximately 55.6 hectares, 34.2 hectares being within East Ayrshire.

3.3 There are no statutory designations and no Scheduled Ancient Monuments or Listed Buildings within the application site, though the site is located within 5km of five designated SSSIs. Craigengillan Historic Garden and Designed Landscape is located 3.2km to the west of the site and the Kings Cairns Scheduled Ancient Monument lies 65m to the south of the site in Dumfries and Galloway.

3.4 Proposed Development: The development proposes the following:

- 50 wind turbines of up to 149.5 metres to tip height, approximately 89.5 metres to hub height and a 113 metre rotor diameter with a hardstanding area, approximately 45m by 35m, and transformer at each turbine base;
- 56.6km of on-site access tracks, consisting of 30.6km of new tracks and 26km of upgraded track and 22 associated watercourse crossings;
- electricity substation compound with a control building and a network control building;
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In addition to the above components of the operational wind farm, the construction phase proposals include:

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3.5 The wind farm proposal comprises the erection of 50 three bladed turbines, computer controlled turbines, with an individual rating of up to 3.4 megawatts (providing a maximum total capacity of up to 170 megawatts). There are two proposed access points for construction traffic and abnormal loads, the northern access off the B741 at Meikle Hill and the southern access off the A731 at Campbells Hill. The turbine components abnormal loads will be delivered to Ayr harbour and use the A713 south towards the site. The applicant had previously intended to use the private access road, previously owned by Scottish Coal, to bypass Dalmellington to the northern site access on the B741. This option is no longer available since Scottish Coal went into liquidation, however the applicants have suggested that they are in negotiations with the new owners (OCCW (Chalmerston)) of the private access road.

3.6 Approximately 580,000 m³ of stone is estimated to be required for construction of the wind farm which will be sourced from the 8 onsite borrow pits. One of the key borrow pits, Borrow Pit 1 Meikle Hill (also referred to as Clawfin Quarry), is intended to be used both by the applicant for the construction of the wind farm and by Scottish Power for material for the construction of the Interconnector Power Line. Both companies have suggested that they have legal agreement with the Forestry Commission to use the quarry extension and it is expected that this will be on a phased basis, with the Interconnector coming first. The foundations for the turbines will require the excavation of any underlying peat and subsoil to expose the

bedrock, with the excavated area subsequently capped with peat or soil. The proposed development includes the formation of approximately 30.6km of new tracks and upgrading of 26km of existing track. The applicant has noted it may be necessary to microsite elements of infrastructure up to a threshold of 50m, however, if required, this would be agreed in advance with specialist advisory bodies and within the terms of any consent.

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3.10 In terms of socio-economic benefit, the applicant indicates that beneficial effects have been identified during the construction phase for on-site employment and service provision to the local and wider economy. Although the applicant acknowledges that these are short terms and temporary. Some additional employment is proposed over the 25 year operation and maintenance period.

3.11 A number of recreation activities fall within the site boundary and will be temporarily disrupted during the construction period. These activities include fishing locations and a footpath, Core Path DS2.

3.12 The proposal has been the subject of pre-application consultation with the local community and other relevant stakeholders / interested parties. A Pre-Application Consultation Report accompanies the application that details the measures undertaken by the applicant to engage with the community, including a series of public exhibitions held in November 2011, June 2012, March 2013 and May 2013 in New Cumnock, Dalmellington, Carpshearn and Patna which were attended by approximately 221 people. Door to door surveys and a telephone survey were also undertaken in 2012 and households within a 15km radius of the site were sent an information leaflet.

4. CONSULTATIONS AND ISSUES RAISED

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

4.2 East Ayrshire Council Roads and Transportation Division – has no objections however raises a number of concerns regarding the effect of the heavy volume of timber, construction traffic and abnormal loads on the public road network.

- The information submitted by the applicant does not address the effect of the development on the structural integrity of the public roads to and from the site during the construction phase making it difficult to assess the exact mitigation measures required to ensure that damage to public roads is minimised.
- The Environmental Statement contains a number of conflicting figures regarding the number of HGVs journeys required during construction. A notable example is that of the amount of rock required during construction, Appendix 7.1 Annex C stating 578,768 cu m whereas the WSP Executive Summary of the Borrow Pit Report states 100,000 cu m of rock is required.
- The Council considers that the significant increase of HGV traffic on the A713 will require the developer to contribute, through a Section 96 Roads Agreement, to any extraordinary maintenance costs incurred during the construction phase.
- The A713 is not currently suitable for the transportation of abnormal loads during Turbine Transportation as Boneston Bridge by Hollybush is not considered capable of accommodating abnormal loads in its current condition. This bridge will require removal and infilling or replacement prior to any abnormal load movements.
- The development will cause a significant increase in HGV traffic on minor roads not structurally designed for such traffic including B741, Gateside Road and Broomknowe in Dalmellington. Structural assessment and pre works dilapidation and video survey will be required to be undertaken by the applicant and agreed with the Council prior to any commencement of works on site.

These matters and more detailed roads and traffic issues can be covered by the imposition of planning conditions or be included in a Section 96 Roads Agreement.

4.3 Dalmellington Community Council object to the proposed development. The grounds for objection:

4.3.1 The proposed scheme is for the construction of 50 turbines with a tip height of 149.5 metres, each equivalent in height to a 50 storey office block. They would tower threateningly over the community and landscape, the moving blades exaggerating the severely adverse visual impact. Dalmellington is a former coal mining community and was hit very hard by the closure of the deep mines a generation ago. The consequent high levels of unemployment, in the absence of other opportunities, led to social problems, a sense of isolation and a lack of belief in the future. Parts of the community fall within the worst affected areas of deprivation in Scotland.

Having visited Dalmellington in 1844, the great circuit Judge and educationalist Lord Cockburn wrote:

‘When it’s time shall come (as come it will), what a village Dalmellington may be. A few old trees, irregular ground, tumbling burns, a spire, and a mill – what more is wanted?’

Three years later Cockburn grieved for progress:

‘It has the appearance, and the reputation of being a singularly virtuous and happy village; and I am told is perhaps the last place in Ayrshire where, with a good deal of old primitive manufacture, rural simplicity and contentment still linger. But it is now to taste of manufactures in an improved state. The devil has disclosed his iron and speculation has begun to work it. There seemed to be about a dozen of pits sinking within half a mile of the village, and before another year is out those now solitary and peaceful hills will be blazing with furnaces, and blighted by the presence and the vices of a new population of black scoundrels. They were already lying snoring and, I presume, drunk on many indignant knolls.’

There are parallels with the threat we face today.

In Rob Close’s Ayrshire & Arran Architectural Guide of 1992, he writes:

‘Iron works and coal mines have come and gone. The little town remains depressed and neglected, and the peaceful and solitary hills are being carted away in the search for open-cast coal.’

The community is, despite the above, a very strong and spirited one. Over the last 10 years the local community has embraced a vision for a new future based on nature tourism and outdoor activities. The essential foundation is a beautiful natural environment and enormous local efforts have been made to restore and enhance a landscape previously scarred by past coal mining and

iron smelting. The Georgian Society has awarded it the 'Best Restoration of a Georgian Landscape in Britain'. Re-industrialisation by these turbines would destroy our new future.

Thanks to the energy and vision of the community a new future dawns. We must not see that hope and promise crushed.

4.3.2 The Valley is attracting increasing numbers of visitors. Its natural beauty and interest is becoming increasingly appreciated, reinforced by inclusion within the forthcoming UN Biosphere and the building of the Scottish Dark Sky Observatory. The Valley offers great potential for increased sustainable development, if left alone. It would be blighted by the erection of these wind turbines.

4.3.3 The adverse impact on our landscape and neighbouring communities would be significant. Otters, badgers, bats and fish have the potential to be harmed.

4.3.4 For the first time in generations pair of Ospreys have nested above the northwest shore of Loch Doon. Ospreys fly at the altitude of turbine blades and their future here would be very uncertain. Between 40 to 50 Whooper Swans are to be found at Bogton Loch SSSI each year and they would be mangled by turbine blades.

4.3.5 The turbines would have a massive and dreadful visual impact on the communities

4.3.6 The turbines would dominate the setting of the Dalmellington Conservation Area, Listed Buildings, Scheduled Monuments including Dalnean Hill, 5 SSSI's and the Designed Landscape of Craigengillan. The latter is of exceptional quality confirmed by Historic Scotland as 'outstanding' in all seven of the criteria employed. This landscape is a source of pride to the entire community and the foundation for much of its revival.

4.3.7 The proposed development is contrary to a key objective of the Ayrshire Joint Structure Plan, specifically 'To develop strong and vibrant communities by realising their potential for regeneration and growth and through the promotion of appropriate development for rural area'.

The area is covered by Loch Doon and its surrounding hills together with Craigengillan and the Doon Valley is recognised as one of the most beautiful in Ayrshire, with a marvellous array of natural habitats, flora and fauna. It is also a place of great historic, architectural and cultural interest. All this creates a strong foundation for an economy based on green and cultural tourism.

Regeneration and sustainable development based on a natural environment that is respected and cared for leads to ever greater care and positive enhancement of natural habitats and landscapes as they become recognised for their economic and employment creating foundations. Hence the many

regeneration projects and enterprises which are springing up following tremendous recent efforts to preserve and enhance the landscape and natural heritage of the area.

4.3.8 The proposed development is contrary to a key objective of the Ayrshire Joint Structure Plan, specifically 'To safeguard and enhance the quality of the environment'. The turbines would brutally dominate this beautiful valley, classified as a Sensitive Landscape in the Local Plan. The landscape here is identified within the Ayrshire Landscape Character Area as 'Upper River Valleys'. The landscape evaluation for this category has an overall assessment of value as high. It states that the landscape of this part of the Doon Valley is the best representation of 'Landscape as a Resource' and has a particularly high 'sense of place' and 'conservation interest'. Whilst the turbines would not be sited within this landscape, they would tower over it.

The applicant does not appear to have taken into account the East Ayrshire Landscape Wind Capacity Study. Adopted by East Ayrshire Council this year. The proposed South Kyle turbines, with their unavoidable significant adverse impact on this special remaining wild part of East Ayrshire, are incompatible with the study's findings.

The proposal and the consequences that would follow are contrary to the overall philosophy of the Structure Plan, a concentration on sustainable growth against a background of the sort of society in which we wish to live. Jobs and investment based on the quality of the environment.

This philosophy and aim is incompatible with a plan that would destroy a Sensitive Landscape Area and deter visitors. It is because of this that the Supplementary Guidelines prepared by the Ayrshire Joint Planning Service and subsequently formally adopted exclude this area as a favourable site for wind turbine developments.

Any wind farm, if built, would likely to create less than one, and probably not local, full time job once commissioned. It would destroy existing jobs and very many future ones.

4.3.9 The proposed development is contrary to paragraph 6 'Delivering the Vision' of the Ayrshire Joint Structure Plan, specifically 'Ayrshire's great assets include a high quality environment, natural resources and a good quality of life – 'all of which offer tremendous potential for development'.

4.3.10 The proposed development is contrary to paragraph 7 'Delivering the Vision' of the Ayrshire Joint Structure Plan, specifically 'To realise this potential and to contribute fully to sustainable growth a Plan is proposed which protects, enhances and capitalises on human and natural assets, regenerates communities, sets out a proactive economic agenda to grow and diversify the local economy and seeks to achieve closer integration with the Glasgow City Region'. As stated above, the Plan has been designed to

protect, enhance and capitalise on human and natural assets. The proposed development would very greatly harm these assets.

Once more, the Plan emphasises the importance of conserving the built and natural heritage. The proposed development would mortally damage it. Having to object to this proposal is akin to having to do the unbelievable and oppose a plan to spray graffiti on one of the finest landscape paintings in the National Gallery of Scotland.

4.3.11 The proposed development is contrary to paragraph 9 'Delivering the Vision' of the Ayrshire Joint Structure Plan, specifically '*Sustainable development is enshrined in international and national policy. It touches all aspects of policy and action. On a global scale it embraces issues such as climate change and the exploitation of non renewable resources. At an Ayrshire level the concept of sustainable development requires the promotion of development that meets the needs of today, respects the limits of ecology and safeguards options for future generations. It is not just a concept about the environment but about economic growth, social development – about the type of society in which we wish to live*'.

When residents move away because of noise and visual intrusion of the turbines and the tourists, astronomers, walkers and riders don't visit, we'll be left with an industrialised dead landscape. Schools and local businesses will be affected. Then where do our young people go? The compensation money is already dividing our communities and what will there be left to spend it on?

We can build a thriving economy on tourism, outdoor sports etc. We are within the newly designated UNESCO Biosphere reserve, the first in Scotland, putting us on a par with the Grand Canyon and Yellowstone National Park. The International Dark Skies Association has recognised this area as having the purest air and darkest skies in Europe which is what astronomers are looking for. To realise the potential this offers, the Scottish Dark Skies Observatory has been built through local effort. We are already developing a nationally recognised path network. Visitors need refreshment, accommodation, information, souvenirs, sports etc creating further opportunities for employment and raising local confidence.

The proposed scheme would undo all the work of this community over the last ten years. The massive turbines would tower over the valley and industrialise the landscape. They would prevent sustainable development.

4.3.12 Contrary to ECON 7 of the Ayrshire Joint Structure Plan: The proposal is out with the Preferred Areas of Search identified in the Addendum to the Structure Plan. Consent for development here would set an undesirable precedent for yet more turbines out with recognised search areas. While the Structure Plan does not rule out development in such cases, proposals have to be assessed against a number of constraints, including communities, historic environment, areas designated for their regional and local natural heritage value, tourism and recreational interests. The proposed

development would be disastrously damaging in respect of all the above categories.

The proposed development is outwith the two areas of search. These two areas cover some 10% of Ayrshire and are capable of making a huge and disproportionate contribution from Ayrshire to national renewable energy targets. There can be no justification for exceeding this already very high contribution by damaging landscapes and local communities outwith the two areas of search. East Ayrshire contributes quite disproportionately already to the energy needs of this country, including nearly half of all the coal within the United Kingdom.

4.3.13 Contrary to the Ayrshire Joint Structure Plan policy ECON 7 section E) out with the Areas of Search: all wind farm proposal will be assessed against the following constraints, any positive or adverse effects on them and how the latter can be overcome or minimised:

- **Historic Environment:** The application site is located close to the Designed Landscape of Craigengillan, rated by Historic Scotland as being one of the four most important in the country. The proposed turbines would tower over all this beauty. This natural asset is a foundation for green tourism and a sustainable future where natural resources and local employment combine. This is a central part of the philosophy of the proposed Biosphere. In addition, the conservation area of Dalmellington and Scheduled Ancient Monument of Dalnean Hill and numerous other listed buildings would be adversely affected.
- **Areas designated for their regional and cultural heritage value:** Visitors including walkers and fishermen come to this part of Ayrshire for its peace and beauty. It is impossible to overcome or minimise the adverse visual impact that any turbines would have. The proposed development immediately adjoins the adjacent SAC's and is close to five SSSI's and would have an adverse impact upon them. Birds are killed by turbine blades and the construction of roads, concrete bases and the turbines themselves would cause great disturbance. Recent reports have detailed the way in which bats, all species of which are protected, are drawn into the low pressure vacuum caused by the turbine blades. Their lungs literally explode; a horrible death. NPPG14 stresses 'the importance of safe guarding and enhancing natural heritage beyond the confines of designated areas'.
- **Tourism and Recreational interests:** Loss of present and future sustainable development as a result of deterring visitors has a damaging effect on local employment. The severely adverse impact on the historic environment, areas designated for their regional and local natural heritage value, tourism and recreational interests and communities means that the application would fail the tests for this scheme which is outside the Area of Search. Tourist attractions created with great effort and imagination include the Scottish Dark Sky Observatory, the successful Riding stables, nearly 20 miles of new

footpaths and the Fort at Craigengillan. They would all be severely and adversely affected by the turbines.

The Scottish Dark Sky Observatory is a unique asset, not just for our community but for Scotland as a whole. It is the only publicly accessible research grade conservatory within a gold tier Dark Sky Park in the world. Nothing should be allowed to harm it or diminish its potential. The turbine blades would protrude above the currently pristine horizon. Infra red lighting of the turbines would impact on the ability of the telescopes to be used for imaging and research, as well as on equipment used elsewhere within the Dark Sky Park. If, as looks likely, visible lighting is required, either now or in the future, the whole ethos and purpose of the Dark Sky Park would be fatally compromised. The Observatory was formally opened by the First Minister of Scotland on Friday 5 October 2012. As reported in the Cumnock Chronicle on 10 October 2012, the First Minister said "It's amazing for Dalmellington, for Ayrshire and for the whole country". "It is a huge visitor attraction but it's also something that will provide huge regeneration for this area". "it will be a stimulus for tourism and it's a great learning facility. This area has talent, dramatic scenery and now it's got this world class facility".

The proposed development site is within a Sensitive Landscape Character Area which has been evaluated as of high importance.

- **Communities:** Many people, both those from our communities and regular visitors, are completing and signing letters of objection. We would like to explain how this came about and why each one should be counted seriously and given full weight.

The majority of members of our community are very concerned by the proposal and are firmly opposed to it. We listened carefully to all their individual concerns and prepared pro forma letters setting out these concerns in the context of the Development Plan. Very few people have experience with the procedures to be followed or of the planning policies which deal with their individual concerns which must be examined and addressed when preparing letters of objection. We have listened carefully to people's concerns and translated them into the appropriate planning policies.

There are no long term employment or other benefits. Instead there are likely to be employment losses through tourism being adversely affected. We include a link to the June 2013 YouGov opinion poll which finds that 51% of people would be less likely to visit a scenic area of Scotland which contains large-scale developments such as commercial wind farms, pylons etc. This is why the proposed scheme is incompatible with our visitor based new future based on green tourism and outdoor activities. All our experience has shown that visitors are attracted not just by the enterprises and facilities themselves, but by the beautiful natural environment and landscapes within which they are set. It is however becoming clearer by the day

that people do not believe in wind turbines and would avoid formerly beautiful and wild areas that have been brutally industrialised.

- **Buffer Zones:** The application site is within the overall boundaries of the proposed Biosphere. The scheme is contrary to the ideals of sustainable development promoted by Biospheres.

4.3.14 Contrary to the Ayrshire Joint Structure Plan policy ECON 7 section F): *'Proposals affecting Sensitive Landscape Character Areas shall satisfactorily address any impacts on the particular interest that the designation is intended to protect but the designation shall not unreasonably restrict the overall ability of the plan area to contribute to national targets'.*

The intention of the Sensitive Landscape Character Areas is 'to be a means of ensuring that the important qualities and characteristics of the landscapes in certain areas are safe guarded'. While none of the proposed turbines are within the boundaries of the SLCA, they adjoin and would dominate it. What is at stake is not just the landscape of the application site but the whole character and atmosphere of the Upper Doon Valley and its surrounding hills, designated as sensitive. NPPG 14 accepts that the more sensitive landscapes have little or no capacity to absorb the kind of development envisaged in this scheme.

4.3.15 Contrary to the Ayrshire Joint Structure Plan policy ECON 7 section G): *'In all cases, applications for wind farms should be assessed in relation to criteria including, as appropriate, grid capacity, impacts on the landscape and historic environment, ecology (including birds), biodiversity and nature conservation, the water environment, communities, aviation, telecommunications, noise and shadow flicker'.*

- Biodiversity and nature conservation – see comments for the relevant corresponding policies of the Local Plan.
- Water Environment: The evidence of other sites where this kind of development has happened is of the changing of acidity and silting of the burns and consequent destruction of most species of fauna and flora including trout and salmon spawning grounds.
- Noise: We attach as appendix 1 a report by Dick Bowdler BSc, Ceng, Cphys, FIOA, FCI, BSE, MCIRAb, the world renowned acoustician, relating to noise levels from wind turbines. His findings dismiss the use of ETSU-R-97 to assess wind farm noise in planning applications and show the considerable impact of noise from turbines when set against the low levels of background noise in this peaceful rural area.

4.3.16 Contrary to ECON 12 The Tourism Resource which states that *'The three Ayrshire Councils shall, in conjunction with other agencies, promote the development of tourism to increase the range, geographic spread and quality of accommodation, facilities, attractions and supporting infrastructure where it contributes to environmental quality, extends the visitor season, provides further job opportunities, supports communities and encourages rural*

diversity'. See comments on TOUR 1, TOUR 4, PROP 2 and PROP 3 of the Local Plan.

4.3.17 Contrary to ECON 13 Tourism Opportunities of the Ayrshire Joint Structure Plan which states that *'The three Ayrshire Councils shall, in conjunction with other agencies: a) support the development of outdoor access tourism, together with associated accommodation and infrastructure; b) support proposals that would contribute to the development of a major integrated coast based tourist, leisure and recreational area focused on the Firth of Clyde and the Islands of Arran, the Cumbraes and Ailsa Craig in context of ENV 10; c) safeguard and promote the locations, landscapes and buildings associated with Robert Burns and seek designation of these locations as a possible World Heritage Site; and d) explore the potential offered by the natural environment in developing marine based tourism opportunities in the Firth of Clyde, a Biosphere Reserve in southern Ayrshire and a Geopark on Arran'*. See comments on TOUR 1, TOUR 4, PROP 2 and PROP 3 of the Local Plan.

4.3.18 Contrary to ECON 14 Rural Diversification of the Ayrshire Joint Structure Plan which states that *'The three Ayrshire Councils shall a) support the principle of rural diversification, particularly through proposals for small scale renewable energy; forest based products and industries; leisure, recreation and tourism; non food crops and local quality food initiatives; appropriate rural housing and small scale business development; and b) identify appropriate criteria for the assessment of proposals related to the diversification and growth of existing rural businesses and for the establishment of appropriate new business development in rural areas'*. Examples of the above are the Scottish Dark Sky Observatory, the Fort at Craigengillan (and with it the involvement of all four Cadet Forces and Scouts Scotland) and 18 miles of new core footpaths, which, in the absence of wind turbines, will promote outdoor activities, crafts and green cultural tourism. In addition Loch Doon Caravan Park is under construction, following valiant community fundraising.

4.3.19 Paragraph 60, 61 and 62 of the Ayrshire Joint Structure Plan on rural diversification states *'Ayrshire's rural areas offer great potential to sustain and encourage rural business development and diversification without compromising the environmental quality of the countryside itself. As the rural economic base and particularly agriculture are undergoing a period of considerable change it is essential that rural areas increase their capacity to adjust to and accommodate this change whilst protecting and enhancing environmental quality. This will be particularly necessary if local benefits such as new and higher quality jobs are to be created and rural communities regenerated.*

'Policies throughout the plan are aimed at protecting and enhancing the essential rural character of Ayrshire at a time of increasing change. Environmental quality is itself a key economic driver that increasingly underpins the future of the countryside and must be protected and enhanced.

While change must be anticipated and accommodated this must be in the form of a managed evolution and not at the expense of the environment'

'While many traditional rural activities in agriculture and forestry will continue to develop and diversify, many new business opportunities will either be in the service sector or have a high service and knowledge content. These activities tend to be much less visibly intrusive and may, therefore, be accommodated with less obvious impact. Many of these activities can be located within the service centres and other local communities where accessibility is at its highest and, provided this meets operational and market requirements should be supported by the provision'.

The structure Plan recognises the vital importance that a beautiful landscape lends towards strong local communities and sustainable development. We highlight the particular points within 60, 61 and 62 of the Environmental Section where the proposal is contrary to the Structure Plan.

4.3.20 Policy ENV 1 of the Ayrshire Joint Structure Plan deals with Landscape Quality. This states that *'The quality of Ayrshire's landscape and its distinctive local characteristics shall be maintained and enhanced. In providing for new development, particular care shall be taken to conserve those features that contribute to local distinctiveness including:*

- A) Settings of communities and buildings within the landscape;*
- B) Patterns of woodland, fields hedgerows and tree features;*
- C) Special qualities of rivers, estuaries and coasts;*
- D) Historic landscapes; and*
- E) Skylines and hill features, including prominent views.*

Local plans shall seek to protect and enhance landscape character and establish criteria for the assessment of future development proposals in the context of the particular local landscape type within which the development is proposed'.

Paragraphs 89 and 90 of the Ayrshire Joint Structure Plan state that *'Ayrshire benefits from having an attractive and high quality environment and the landscape character, biodiversity, natural environment, historic and cultural heritage of the area all provide a sense of place and local distinctiveness. The care of the processes that contribute to excellence in the environment, such as good air and water quality, can cumulatively also support quality of life. As pressures on the environment evolve and increase, the need to manage change requires a more direct approach to safeguard and enhance the rich diversity of local environments. In some areas the countryside can also deteriorate through a lack of human intervention just as much as from development pressures.*

In recognition of increasing environmental change there requires to be an extension to the concept of value as applied to the whole environment. This means that although statutory designations are important it is necessary to go further and develop policies to embrace the totality of environment and

promote quality of life. Areas of change should be recognised as opportunities within which future natural, built and cultural environments of quality can be created'.

The whole of paragraphs 89 and 90 are directly relevant and any turbine development would be completely contrary.

4.3.21 Policy ENV 2 Landscape Protection of the Ayrshire Joint Structure Plan states that 'The three Ayrshire Councils shall:

- a) Recognise international and national natural heritage designations and the statutory protection afforded by them;
- b) Support the identification of additional Local Nature Reserves and continue to work with other stakeholders to implement the Ayrshire Local Biodiversity Action Plan. Local Plans shall include policies based on the Scottish Executive Model Policy for the protection of all sites of recognised international and national natural heritage importance.

4.3.22 Section 104 relates to the Protection of the Natural Heritage. It states that; 'In addition to statutory obligations to conserve and enhance wildlife habitats and species, the EU Habitats Directive also requires the planning system to look beyond designations and encourage positive management of features of the wider countryside that form a network to support the survival of important species'.

Our earlier comments on the serious adverse impact on otters, bats, ospreys, hen harriers and peregrine falcons are relevant. This area is known and valued for its wildness, peace, beauty and 'sense of place'. Please see our analysis of the proposed wind farm within the context of the proposed wind farm of East Ayrshire Landscape Wind Capacity Study 2013 (Appendix 4).

4.3.23 The proposal is contrary to the strategic aims of encouraging economic development, developing strong and vibrant communities and safeguarding and enhancing the quality of the built and natural environment. Re-industrialisation of the landscape and the severely adverse visual and noise impact would lead to loss of the future which we, as a community, have embraced – a future founded on nature tourism within a celebrated landscape.

The Local Plan has, as a priority, the regeneration of the former coal field communities. The proposal is completely at odds with this. The vision for our future, which is fast becoming a reality, is incompatible with the adverse visual and aural impact of these giant turbines.

The Council is committed to protecting, conserving and enhancing the character, appearance and amenity of the East Ayrshire Communities and their rural settings, especially as regards their landscape quality and the built and natural environment. The Local Plan therefore aims:

- to protect, preserve and, where appropriate, enhance all built and natural heritage resources requiring conservation.
- to protect, preserve and enhance the landscape character and appearance of the area.

The impact of the turbines is 'significant and adverse'.

4.3.24 The proposed development would destroy the setting of the Dalmellington Conservation Area, many listed buildings, five SSSI's, a Scheduled Monument, one of the four most highly rated Designed Landscapes and a Sensitive Landscape.

Within the Local Plan (volume 1, page 13) the East Ayrshire Community Plan is described as the most important strategic operational document produced by the Council. The theme of Delivering Community Regeneration is of particular relevance to the Local Plan. The Council is committed to 'regenerating town centers and villages and dealing with rundown areas', 'growing and supporting new and existing businesses', 'growing tourism and increasing visits', 'participation in cultural and leisure activities' and 'protecting, conserving and enhancing the natural environment'.

As detailed elsewhere, our community has a clear vision for regeneration, based on nature and cultural tourism within a celebrated landscape, a Conservation Area, Designated Sensitive Landscape and five SSSI's. Tourists come not just to facilities themselves, such as the miles of wonderful footpaths, the Observatory, the Riding Stables, but for the setting.

The setting would be very severely compromised by the proposed development, as the June 2013 YouGov Opinion Poll confirms. It found that 51% of people would be less likely to visit a scenic area of Scotland which contains large-scale developments such as commercial wind farms, pylons etc. Our recovery is a fragile one, which could not withstand it. The extinguishing of job opportunities and the consequent collapse of community well-being and self-confidence would be exceptionally sad.

Under 3.5 of Volume 1 of the Local Plan 'the Council considers it imperative that all new developments should integrate fully with any existing or proposed developments in the area'. The proposed scheme cannot be so integrated. It is diametrically opposed to the regeneration projects which have been and will otherwise continue to be successfully developed.

4.3.25 The successful development of tourism to bring about regeneration is a prime objective in the Local Plan, as set out on page 22 of Volume 1. The tourism strategy aims to maximise the role that tourism can play in regeneration and to 'increase visitor numbers based on the area's built and cultural heritage and the sustainable use and promotion of the landscape quality of the area and its associated nature conservation interest.' This is exactly what is happening here – regeneration based on nature and cultural tourism and outdoor activities.

We may have had hard times until now, but we recognise the natural assets we have to enable our vision for the future to become a real and enduring one. We have one of the most highly rated landscapes in Scotland, five SSSI's, Listed Buildings, Scheduled Monuments, native hardwood woodlands and forests, lochs and rivers, twenty miles of completed footpaths, attracting over 45,000 visitors each year, a successful riding stables of high repute, a Fort and activity area for Cadet Forces, Scouts and other youth organisations and many others.

4.3.26 Equally importantly, we have a strong and spirited community with masses of talent and with the determination to succeed. Our new future is based on the natural assets with which we are blessed and the Dark Sky Park and UNESCO Biosphere designations with which we have been awarded.

The plan also makes a commitment to safeguarding the landscapes and buildings associated with Robert Burns, promoting the Doon and Irvine Valleys as gateways to East Ayrshire and unlocking the superb potential of Loch Doon, as recognised with the Development Plan. The enormous turbines proposed would loom over Loch Doon and its surrounding hills and over the landscape celebrated and loved by Burns.

The truth of the matter is that visitors coming to areas of natural beauty and biodiversity interest do not want to come to an industrialised landscape.

4.3.27 (Contrary to) TOUR 1: *'The Council will actively support and encourage the development of appropriate sustainable tourism throughout East Ayrshire'.*

This Council has done. We, too, are right behind the policy and through huge hard work have created tourism initiatives to make this a place that increasing numbers of tourists will wish to come too. The very nature of these initiatives, as explained earlier, is incompatible with the turbine proposal.

4.3.28 (Contrary to) TOUR 2: *'Encourages the development of a strategic footpath network'.*

This we have done and nearly twenty miles of local footpaths take visitors through our beautiful landscape to famous destinations, including Ness Glen and Dalcairnie Linn. The paths are increasingly well used and explored, with over 45,000 walkers attracted each year. Walkers attracted by the superb and peaceful landscape, cultural interest and the remarkable biodiversity to be found here will be driven away by an industrialised landscape. This landscape has been protected and enhanced at huge and recognised effort following previous industrialisation. It would not be fair or just to have this work destroyed.

4.3.29 (Contrary to) TOUR 4: *'The Council will encourage and support the retention of existing tourist attractions.'*

This again the Council has done. We will not, though, be able to retain such attractions if their setting is destroyed. Visitors will not return, jobs will be lost and, with them, the opportunity for regeneration.

Tourism creates jobs, not only directly at the attractions themselves, but also indirectly by supporting local shops, businesses, accommodation providers etc.

4.3.30 (Contrary to) PROP 2: This relates to the safeguarding and promotion of locations, landscapes and buildings associated with Robert Burns and the aim of achieving their designation as part of a World Heritage Site. Burns was a frequent visitor to Craigengillan and wrote a poem to the McAdam of the time, one of his earliest supporters and patrons.

4.3.31 (Contrary to) PROP 3: Relates to the forthcoming Biosphere designation, a hugely important development for East Ayrshire. The central ethos of the Biosphere is the mutual benefit to man and the natural environment that comes from caring for and protecting our landscapes and natural environment. This principle is at the core of our vision for the future, as explained earlier. The sustainable development becoming a reality as a result of this foundation would be destroyed by the proposed scheme, which is therefore contrary to the ideals of the Biosphere.

4.3.32 (Contrary to) CS14: This policy reflects ECON 7 in the Structure Plan, which has been analysed earlier in the letter. The severely adverse impact on the historic environment, areas designated for their regional and local natural heritage value tourism and recreational interests and communities means that the application would fail the tests for this scheme which is outside the Area of Search.

The proposed development site adjoins and overbears a Sensitive Landscape Character Area which, as detailed earlier in this letter, has been evaluated as of high importance.

4.3.33 (Contrary to) CS14(F): States that '*Sensitive Landscape designation shall 'not unreasonably restrict the overall ability of the plan area to contribute to national targets'.*

East Ayrshire already contributes disproportionately to both renewable energy generation and coal. Production of the latter from opencast sites is equivalent to over 40% of the whole nation's output. For generations before, we have contributed to coal production from the deep mines, iron for our ships and armies, hydro-electricity and commercial forestry. We are just emerging from the legacy of past industrial activity and have restored a huge area of the landscape and natural environment to create the foundation for our sustainable future. It would not be reasonable to expect further sacrifice.

4.3.34 (Contrary to) ENV1: Numerous Listed Buildings, the Conservation Area and Motte of Dalmellington, the Scheduled Ancient Monument of Dalnean Hill, five SSSI's, 35 archaeological site and the important

Craigengillan Designed Landscape will be affected by the severe adverse visual and aural impact of the proposed development. The proposal is therefore contrary to this policy.

4.3.35 (Contrary to) ENV2: Although the site is not itself an SSSI it is very close to five of them. As referred to earlier, even the Applicant's assessment acknowledges significant potential impact on birds, bats, otters and badgers.

4.3.36 (Contrary to) ENV3: *'The Council will give priority and prime consideration to the protection and enhancement of the landscape in its consideration of development proposals within the Sensitive Landscape Character Areas, to ensure that their quality is maintained for the benefit of local communities'.*

The severe adverse impact is hard to overstate. The planned turbines could never be accommodated within or adjoining this much loved landscape, which is so important to our future.

4.3.37 (Contrary to) ENV4: The proposal is contrary to this policy. The giant turbines would dominate the setting of Listed Buildings, unlisted buildings in the Dalmellington Conservation Area and other locally important traditional buildings within the area.

4.3.38 (Contrary to) ENV6: The proposal is contrary to this policy, as it would have an adverse effect on the setting of the Dalnean Hill Scheduled Ancient Monument, as well as over forty other recorded archaeological sites.

4.3.39 (Contrary to) ENV8: The Designed Landscape and Historic Garden of Craigengillan is included in the Inventory and rated by Historic Scotland as being within the Top 4 in Scotland, achieving the top award of 'Outstanding' in each of the seven criteria employed. Views from 77% of the Designed Landscape would suffer a severe adverse visual impact from the turbines, as the Environmental Statement confirms.

4.3.40 (Contrary to) ENV13: Reference has already been made to the effects of the proposed turbines on otters, bats, badgers, peregrine falcons, ospreys, hen harriers and whooper swans. Red kites are now seen above the Bogton Loch SSSI and fly between it and the Galloway Forest.

ENV13 refers to developments that affect SSSI's, not just developments which are within an SSSI.

4.3.41 (Contrary to) ENV14: This confirms the precautionary principle in assessing potential impacts on the natural heritage.

4.3.42 (Contrary to) ENV16: *'The Council will not be supportive of development that would create unacceptable visual intrusion to the landscape character of local areas'.*

As referred to earlier, the impact would be severe and adverse. The turbines would, if built, be a daily reminder of a vision and a future lost. The strength of local feeling against the proposal is hard to overstate. The number of letters of objection submitted give some idea of this.

It is important to explain again how the 'Standard Objection Letters', which are an abbreviated version of this one, came about.

Members of the community attended a public meeting and were invited to raise their view and concerns regarding the proposed turbine development. As most people are not familiar with the planning process, we were asked to prepare the letter, putting the concerns raised within the context of planning policies. The letter thus represents the clear opinion of all those who signed a copy.

4.3.43 (Contrary to) ENV16: requires that developments be sensitively sited, landscaped and screened, so as to blend into, respect and complement the landscape characteristics of the area where the development is proposed.

The proposed massive turbines, with their moving blades, could never be screened or made to blend into the adjoining Sensitive Landscape. The East Ayrshire Landscape Capacity Study confirms that there is no place for them here.

4.3.44 (Contrary to) ENV20: The proposed development adjoins the strategic and tourist route to the Galloway Forest Park. It would not be possible to screen or landscape the turbines so as to avoid the adverse visual impact. The result would be to reduce the attraction of this part of the Doon Valley for visitors and so blight the future based on green and cultural tourism, for which we have all worked so hard.

We attach, as Appendix 5, our comment on the proposal in the context of the Reporters 2007 Report and recommendations following the Public Local Inquiry for the Kyle Forest Wind Farm application by AMEC, Vattenfall's predecessor.

We have not yet had time to read carefully the decision letter of 8 October 2013 from Mr Cunliffe, following the Burnhead Wind Farm Appeal. From first reading however, many aspects of his reasoning, particularly those relating to the impact on tourism, will apply to this application to an even greater degree. As you know, our future lies with visitor based enterprises. Anything which deters visitors threatens our future.

We understand that the impact of these proposed turbines on The Scottish Dark Sky Observatory and the Dark Sky Park is likely to be significantly more adverse than those proposed at Burnhead. The proposed turbines are much greater in number (fifty, compared to eight at Burnhead) and size (149.5 metres tall, compared with 100 metres tall at Burnhead). They would protrude well above the currently pristine horizon. They would be required to be lit. No final decision appears to have been made as to whether this would

be by infra red or visible lighting. As referred to earlier, infra red light would impact adversely on imaging work, both at The Scottish Dark Sky Observatory and on equipment used by others elsewhere in the Dark Sky Park. Visible lighting, required for aviation safety, either now or in the future, would compromise the whole ethos and value of the Dark Sky Park and the Observatory which serves it

In Volume 3 of the Local Plan (page 15) it is stated: 'strategically located on the A713, Dalmellington has considerable potential for development as a service/visitor centre for tourists and tourism development is seen as a major factor in the economic regeneration of the settlement.'

The key points raised by the community council fall within one of a number of topic areas and have largely been linked to the Ayrshire Joint Structure Plan and East Ayrshire Local Plan. The general principle of wind energy development and the legality of this application are not matters for the Council to consider however the others matters are relevant. Matters relating to landscape and visual impacts, effects on communities, effects on natural and cultural heritage and impacts on tourism and recreation have been explored further at section 6 below. Whilst the findings of the Burnhead appeal decision are noted and some degree of comparison could be made with that development, each case should be determined on its own merits and the Planning Authority has assessed this development as such.

4.4 Patna Community Council support the project and believe it will bring benefit to our residents as well as our local area.

Noted

4.5 New Cumnock Community Council has not responded to their consultation at the time of writing this report

4.6 Cumnock Landward (Netherthird & District) Community Council has not responded to their consultation at the time of writing this report

4.7 Ochiltree Community Council has not responded to their consultation at the time of writing this report

4.8 Drongan, Rankinston and Stair Community Council has not responded to their consultation at the time of writing this report

4.9 Key Consultation Responses to the Energy Consents and Deployment Unit of the Scottish Government are summarised below.

- NATs maintains its objection to the proposed development on the basis that 12 of the turbines would have an adverse impact to primary surveillance radar at Lowther Hill and consequential

associated impact on NATs air traffic management operations at the Prestwick Centre.

- Glasgow Prestwick Airport has withdrawn its initial objection subject to conditions being attached to any consent as they have now entered into a legal agreement with the applicant to find an agreed solution to the wind farm being detected by Primary Surveillance Radar (PSR) and SMAA resulting insignificant adverse impact on safety and efficiency of its Air Traffic Control Service.
- RSPB has no objections to the proposed wind farm subject to a number of conditions being attached to any consent.
- SNH had no specific objections to the proposed wind farm subject to conditions being attached to any consent however raised concerns over the potentially significant impact of the proposed development on views from Loch Doon.
- Scottish Wildlife Trust objected to the proposed wind farm requiring further bird surveys to be undertaken and noting that 5 turbines were proposed on blanket mire an important habitat and that a further 7 turbines were located on deep peat areas which will have a significant impact on this peatland habitat.
- Scottish Power Energy Networks maintain a holding objection whilst seeking a separation distance from overhead power lines of more than three times the turbine rotar diameter.
- SEPA have no objection subject to a number of conditions being attached to any consent.
- Scottish Dark Sky Observatory objected to the proposed wind farm on the basis that infra-red lighting and more seriously impacting visible lighting on the turbines is likely to be required by the MoD which would be visible to astronomical imaging systems, would add to light pollution and lighting beyond the horizon, at compounds and buildings would add to skyglow.
- Dumfries & Galloway Council determined on 26th of March 2014 not to object to the proposals subject to a number of conditions being attached to any consent.
- MoD have no objection to the proposed wind farm subject to certain turbines around the edge and on the highest points of the wind farm being lit by aviation lighting, infrared lighting with an optimised flash pattern.

5. REPRESENTATIONS

5.1 The applicant in accordance with the Electricity Act 1989, advertised the application in both national and local newspapers. The Council has been notified by the Scottish Government that 1241 letters of objection and 21 letters of support have been received in connection with the application. No neighbour notification is required to be carried out under the Electricity Act 1989 and representations were invited to be sent directly to the Scottish Government's Energy Consent's and Deployment Unit.

5.2 With this Section 36 application, it is for the Scottish Ministers to take into account the representations received in the determination of this proposal. However the main points of objection are summarised for information below and full copies of the representations are available for inspection as background papers.

5.3 The points of objection are summarised as follows:

- Principle of the Development, contrary to Local Planning policy;
- Location;
- Landscape and Visual Impact;
- Cumulative Impacts;
- Ecology, Wildlife, and the Environment;
- Pollution;
- Lack of community benefits and the Local Economy;
- Designated, Protected, Archaeological and Heritage Sites;

The letters of support consider that the location of the wind farm is appropriate, it will be good for the local economy and wind energy is a clean form of energy generation.

6. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

Approved Ayrshire Joint Structure Plan

6.2 Policy ECON 6 Renewable Energy advises that proposals for the generation and utilisation of renewable energy should be promoted and will conform to the plan both in stand alone locations and as integral parts of new and existing developments where it can be demonstrated there will be no significant adverse impact, including adverse cumulative impact or infrastructure constraints, and where the design of the development is sensitive to landscape character, biodiversity and cultural heritage.

Through ECON6, all renewable energy proposals shall be supported where they are deemed appropriate in terms of a number of key considerations. These considerations are dealt with in detail under ECON7 below, which deals specifically with large scale wind farm developments.

6.3 Policy ECON 7 (Wind Farms) states that:

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

The proposed wind farm is not within either of the two areas of search identified in the Joint Structure Plan.

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

The proposed wind farm is not located in an area with any national or international designations or indeed any green belt. Although, the site is located within 5km of five designated SSSIs it is considered that there will be no direct impact on these designations.

(c) The integrity of national and international designations should not be compromised;

As stated above, the proposal is considered to not adversely impact on the SSSI's. The Kings Cairns Scheduled Ancient Monument, a prehistoric monument, is located within 65m of the site, however whilst the proposal does not entail direct development on the Monument, the setting of the Monument will be affected. Historic Scotland have advised that three turbines which affect the setting, views to and from the cairns be relocated further away from the monument. There are a number of Listed Buildings and Dalmellington Conservation Area within 5km of the proposed site however due to the topography of the area the location of the development it is not considered that they will not be significantly affected. The Craigengillan Estate is designated as a Designed Garden and Landscape and the viewpoint images show that the proposed wind farm will be visible from parts of the Estate. The

development is not however considered to adversely affect the integrity or setting of any of these features to an extent that renders the proposal unacceptable.

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

In terms of cumulative impact, there are a number of applications of significant interest to this application.

In close proximity to the east of South Kyle:

Windy Standard I wind farm (32 turbines) – Operational (D&GC)
Windy Standard II Extension (28 turbines) – Consented (D&GC)
Harehill (20 turbines) – Operational
Harehill Extension (39 turbines) – Proposed (Planning Application)
Ashmark wind farm (7 turbines) – Proposed (Planning Application)
Afton wind farm (27 turbines) – Proposed (S36 Application)

To the west of Dalmellington:

Dersalloch wind farm (23 turbines) – Proposed (S36 Application) (SAC)
Glenmount wind farm (19 turbines) – Proposed (S36 Application) (EAC & SAC)
Keirs Hill wind farm (17 turbines) – Proposed (S36 Application)

All of the proposed wind farms listed above are at a relatively advance stage and will contribute to cumulative impact in this area. Taking into account all of these together with the operational Windy Standard and Harehill wind farms mean that the acceptable cumulative limit has been reached in this sensitive landscape area. This is confirmed by the East Ayrshire Landscape Capacity Study which states that there is only very limited capacity for large turbines in this landscape and potential cumulative effects with operational wind farms should be carefully considered, in particular in terms of contrasts in design layout that may be obvious in key views. It recommends that regular review of the changing cumulative situation is undertaken when considering proposals.

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

Historic Environment

As noted at (c) above, The Kings Cairns Scheduled Ancient Monument, a prehistoric monument, is located within 65m of the site, however whilst the proposal does not entail direct development on the Monument, the setting of the Monument will be affected. Historic Scotland have advised that three turbines which affect the setting, views to and from the cairns be relocated further away from the monument. There are a number of Listed Buildings and Dalmellington Conservation Area within 5km of the proposed site however due to the topography of the area the location of the development it is not considered that they will not be significantly affected. The Craigengillan Estate is designated as a Designed Garden and Landscape and the viewpoint images show that the proposed wind farm will be visible from parts of the Estate. The development is not however considered to adversely affect the integrity or setting of any of these features to an extent that renders the proposal unacceptable.

Areas designated for their regional and local natural heritage value

Aside from the comments above in relation to the SSSI, there are no sites within the application site which have been designated on the basis of their natural heritage value.

Tourism and recreational interests

The proposed wind farm will be visible from significant areas of Loch Doon and from parts of the Craigengillan Estate. Both these locations are key tourism resources, with the Local Plan strategy promoting the Doon Valley as a tourism Gateway for East Ayrshire and Loch Doon as a tourism destination.

Most of the tourism related development and potential within the area is related to outdoor activity, nature and landscape given destinations including Loch Doon, Craigengillan Estate, The Scottish Dark Sky Observatory and the Biosphere and Dark Sky Park Designations. The impact on these elements is difficult to predict, however, the proposal will be visible in the landscape and will affect the character of the area. Solely on the basis of visual impact it is considered that the most adverse effects are localised in nature with most outdoor pursuits experiencing short term impacts as most are not static in nature e.g. walking, riding. Sustained visual impacts will be experienced from activities which take place in locations over 5km away, such as the western side of Loch Doon, with continuous views of this large scaled wind farm. The impact on the observatory from lighting is unclear and may indeed be adverse. This facility has potential to exploit the Dark Sky Park designation and bring visitors to the area therefore any direct adverse impact on this particular element should be resisted.

Communities

The relevant local communities in this instance are the settlements of Burnside, Dalmellington, Bellsbank, Waterside, Patna and New Cumnock as well as individual rural properties along the B741 and A713, including Brownhill close to the site boundary. The separation distance from each settlement to the nearest turbine is as follows with a representative viewpoint number from the ES:

<i>Burnside:</i>	<i>5.0km's</i>	<i>VP12 & VP13</i>
<i>Dalmellington:</i>	<i>5.1km's</i>	<i>VP33</i>
<i>Bellsbank:</i>	<i>5.3km's</i>	<i>VP34</i>
<i>New Cumnock</i>	<i>7.9km's</i>	<i>VP11 & 12</i>
<i>Waterside:</i>	<i>9.6km's</i>	<i>none</i>
<i>Patna:</i>	<i>11.9km's</i>	<i>VPA2</i>

Wind farm developments pose a number of different impacts on communities. These include shadow flicker, noise and visual impact amongst others. Through the 'Addendum to the Ayrshire Joint Structure Plan Technical Report TR03/2006: Guidance on the Location of Wind farms within Ayrshire.', a 2km separation distance to towns is required and a distance of 10 times the turbine rotor blade diameter (whichever is the greater) (in this case approx. 1.13km) from an individual dwelling, work place or community facility should be observed.

However, Scottish Planning Policy does not advocate such a prescriptive approach and considers that the 2km separation distance should be treated as a guide rather than a rule with specific local circumstances to be considered in each case.

The closest settlements to the application site are Bellsbank and Dalmellington. These settlements are out with 2km's from both the site boundary and from turbines. There is one individual dwelling, Brownhill Cottage, within 1.13km of the proposed turbines, however this property will be purchased by the developer should consent be granted. There are several individual properties which would be within 1.13km of the site access roads, compounds and borrow pits.

The Council's Noise Consultants have considered the submitted information and have confirmed that noise will not adversely affect any of the residential properties in the surrounding area, other than Brownhill which is designated as financially involved. Due to the distance of the nearest turbines being over 10 rotor diameters from the nearest remaining residential property, excluding Brownhill Cottage, shadow flicker is not likely to occur.

In terms of the wider community it is considered that the visual impact on the rural area surrounding Dalmellington and Bellsbank will be significant. The views of the wind farm from within these closest settlements will not be significant, however from areas immediately to the west, north and south of these settlements views will be considerably impacted upon by the proposed development, given its prominent location and the rising land surrounding these settlements. In many views the full wind farm will be seen dominating the landscape above the settlements. In other views the rotor blades, nacelles and upper parts of the towers are visible to different degrees, creating a disjointed impression with no clear layout apparent. For this reason, it is considered that the setting and amenity of Dalmellington and Bellsbank will be compromised by the development.

It is also worth noting that the amenity of Dalmellington and Bellsbank and the views from these settlements have long been affected by the opencast coal industry. Whilst the renewables industry represents a wholly different land use, it is the case that any wind farm development will create prominent new man made features in the landscape and in this case will affect the rural setting of Dalmellington and Bellsbank and the wider Doon Valley.

In terms of the other settlements, New Cumnock, Cumnock, Waterside and Patna are at greater distance with the wind farm visible from all of these communities. In addition the full wind farm, due to its elevated location is visible on the skyline from the communities of Mauchline, Ochiltree, Drongan, Coylton, Mossblown, Tarbolton, Maybole, Troon and Prestwick.

Buffer zones

The Structure Plan guidance requests a 30km buffer around the Areas of Search unless detailed analysis can show that development proposals of more limited scale are acceptable in terms of visual and cumulative impact. The proposed site is located beyond the 30km buffer.

Aviation and defence interests

At the time of writing, there remains an unresolved objection from NATs who have not yet identified specific mitigation to resolve an identified adverse impact by 12 of the proposed turbines to primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at Prestwick Centre. It has to be considered that the proposed wind farm will adversely affect aviation safety and operations until such time as NATs are satisfied with any proposed mitigation scheme. Suspensive planning conditions have also been requested by Glasgow Prestwick Airport, should consent be granted, to find an acceptable solution to the predicted adverse impact on the safety and efficiency of the Air Traffic Control Service, capable of

implementation and which requires to be implemented prior to any turbine operating.

Broadcasting issues

The applicant has undertaken studies into telecommunication and microwave links and television reception. There is no impact predicated on either telecommunications or microwave links and it is unlikely that television reception will be affected. However, the applicant has advised that should television reception be affected appropriate mitigation measures will be implemented. Such matters can be addressed through planning condition or by legal agreement should consent be granted.

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

The application site is located between two Sensitive Landscape Character Areas with turbines located adjacent to the boundary of the eastern Sensitive Landscape Character Area. Whilst this does not in itself present a barrier to the proposal, it does require that greater consideration be given to the impact on the landscape.

The landscape of the site consists of a series or group of rounded summits and ridges, planted with four mature commercial forests. The siting of the turbines and the proposed deforestation will result in the proposed wind farm becoming a significant feature in the landscape when looking from the west, south west and north in particular and generally when viewed from beyond 5km from the site. When viewed from more distant locations, over 10km away, the development remains prominent and visible, the effect on the Sensitive Landscape Character Areas remains adverse.

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

Connection to the grid is out with the scope of this application however the applicant has advised that it is proposed to connect into the grid at the Scottish Power Energy Network's New Cumnock Substation at Meikle Hill at the northern access to the site on the B741. As noted above, there will be an impact on both the landscape and the historic environment. The landscape of the site is such that the proposal is a significant feature in the landscape, particularly from the west, south west and north and when viewed from beyond 5km. When viewed from more distance locations, over 10km away, the development remains

prominent and visible. The historic environment is also impacted upon by the development albeit not physically. Settings and views to and from Monuments, listed buildings and Designed Landscapes will be affected to varying degrees.

In relation to ecology, biodiversity and nature conservation, it should be noted that SNH and the RSPB has raised no objection to the development. The development has been fully assessed as part of the Environmental Statement which found no significant impacts on valued ecological receptors, protected species and birds. The applicant proposes a Habitat Management Plan which shall incorporate mitigation measures to protect such valued ecological receptors and birds as well as methods and measures to improve habitats through two main areas: an Increased Open Space and Broadleaved Planting Area and a Moorland Management Area. SEPA has confirmed it has no objection to the applicant's proposals for the protection and enhancement of the water environment.

The views of the wind farm from within these closest settlements, Dalmellington and Bellsbank, will not be significant, however from areas immediately to the west, north and south of these settlements views will be considerably impacted upon by the proposed development, given its prominent location and the rising land surrounding these settlements. In terms of the other settlements, New Cumnock, Cumnock, Waterside and Patna are at greater distance with the wind farm visible from all of these communities. In addition the full wind farm, due to its elevated location is visible on the skyline from the communities of Mauchline, Ochiltree, Drongan, Coylton, Mossblown, Tarbolton, Maybole, Troon and Prestwick.

It has to be considered that the proposed wind farm will adversely affect aviation safety and operations until such time as NATs are satisfied with any proposed mitigation scheme. Suspensive planning conditions have also been requested by Glasgow Prestwick Airport, should consent be granted, to find an acceptable solution to the predicted adverse impact on the safety and efficiency of the Air Traffic Control Service. Adverse impact on telecommunications is not expected however mitigation measures can be secured through planning conditions should such issues occur. The developer has assessed the potential impact from noise as being well within accepted limits and this is accepted by the Council's Noise Consultant, Accon Ltd. The likelihood of Shadow flicker has been assessed by the applicant as being unlikely to occur, in that the only property within 10 rotor diameters of the proposed turbines is Brownhill which as stated above is designated as financially involved.

6.4 Policy TRANS5 ensures the Ayrshire Councils shall work in partnership to promote the appropriate movement of freight transport. Of particular relevance to this application, TRANS5 directs the councils to:

- (c) promote road freight movement in a manner that minimises disruption to local communities and use of inappropriate public roads.

The erection of the wind turbines themselves, as well as the associated access tracks and infrastructure, will result in significant additional road traffic in the local area. The applicant has advised that turbines will be delivered via Port of Ayr Docks. This minimises the distance that the turbine components require to travel and represents best practice. The Roads Division has confirmed that further study will be required and works will require to be undertaken at Boneston Bridge near Hollybush however they raise no objections to the development in principle. The Environmental Statement contains a number of conflicting figures regarding the number of HGVs journeys required during construction. A notable example is that of the amount of rock required during construction. The development will cause a significant increase in HGV traffic on minor roads not structurally designed for such traffic including B741, Gateside Road and Broomknowe in Dalmellington. Structural assessment and pre works dilapidation and video survey will be required to be undertaken by the applicant and agreed with the Council prior to any commencement of works on site. These matters and more detailed roads and traffic issues can be covered by the imposition of planning conditions or be included in a Section 96 Roads Agreement.

6.5 Through ENV1 of the Structure Plan, the quality of Ayrshire's landscape and its distinctive local characteristics shall be maintained and enhanced. In providing for new development, particular care will be taken to conserve those features that contribute to local distinctiveness including, of particular relevance to this application:

- (a) settings of communities and buildings within the landscape;
- (e) skylines and hill features, including prominent views

The landscape of the site consists of a series or group of rounded summits and ridges, planted with four mature commercial forests. The siting of the turbines and the proposed deforestation will result in the proposed wind farm becoming a significant feature in the landscape when looking from the west, south west and north in particular and generally when viewed from beyond 5km from the site. When viewed from more distant locations, over 10km away, the development remains prominent and visible.

6.6 Policy ENV2 requires that in Sensitive Landscape Character Areas the protection and enhancement of the landscape shall be given full consideration in the preparation of local plans and the determination of planning applications.

The application site is located between and adjoining two Sensitive Landscape Character Areas. The landscape of the site is such that the proposal is a significant feature in the landscape, particularly from the west, south west and north and particularly when viewed from beyond

5km from the site. When viewed from more distance locations, over 10km away, the development remains prominent and visible, the effect on the Sensitive Landscape Character Areas remains adverse

6.7 Through Policy ENV6, development proposals considered to have an adverse effect on specified heritage resources shall not conform to the structure plan:

- (a) listed buildings or architectural and historic interest;
- (b) designated conservation areas;
- (c) historic gardens and designed landscapes; and
- (d) archaeological locations and landscapes

As noted above, The Kings Cairns Scheduled Ancient Monument, a prehistoric monument, is located within 65m of the site, however whilst the proposal does not entail direct development on the Monument, the setting of the Monument will be affected. Historic Scotland have advised that three turbines which affect the setting, views to and from the cairns be relocated further away from the monument. There are a number of Listed Buildings and Dalmellington Conservation Area within 5km of the proposed site however due to the topography of the area the location of the development it is not considered that they will not be significantly affected. The Craigengillan Estate is designated as a Designed Garden and Landscape and the viewpoint images show that the proposed wind farm will be visible from parts of the Estate. The development is not however considered to adversely affect the integrity or setting of any of these features to an extent that renders the proposal unacceptable.

Adopted East Ayrshire Local Plan

6.8 Policy SD1 states that the Council will adhere to the principles of sustainability in its consideration of all development proposals and will seek to ensure that all new development contributes positively to the environmental quality of the area. In this regard, the Council will ensure that all new development does not have any unacceptable adverse impact on:

- (i) The character and appearance of the particular location in which it is proposed.

It is considered that the proposal will result in a significant change in the character and appearance of the local area. It is accepted that wind farms, by their very nature, are prominent features in the landscape and will offer a degree of visual intrusion. However in this case it is considered that the visual intrusion is exacerbated by the siting of the turbines, on a series or group of rounded summits and ridges, together with the proposed deforestation will result in the proposed wind farm becoming a significant feature in the landscape. This is evident when looking from the west, south west and north in particular and generally

when viewed from beyond 5km from the site. When viewed from more distant locations, over 10km away, the development remains prominent and visible. In addition, the cumulative impact of this wind farm, taking into account operational wind farms, and the submitted Section 36 applications and planning applications for wind farms could lead to significant and extensive adverse cumulative effects. The current proposals exceed the capacity of the landscape in which they are located.

(ii) The environment and amenity of local communities and residents of the area;

Whilst the proposal offers no adverse impact by way of noise or shadow flicker, the visual impact experienced by the local communities and in particular Dalmellington and Bellsbank and the surrounding rural areas, is significant and is detrimental to the local environment and level of amenity enjoyed by the communities.

(iii) Landscape character and quality;

The application site is located between and adjoining two Sensitive Landscape Character Areas. The landscape of the site is such that the proposal is a significant feature in the landscape, particularly from the west, south west and north and particularly when viewed from beyond 5km from the site. When viewed from more distance locations, over 10km away, the development remains prominent and visible, the effect on the Sensitive Landscape Character Areas remains adverse

(iv) Natural or built heritage resources.

A degree of impact on some bird species may occur as a result of this development however it is not considered to be significant. Furthermore, mitigation measures, including a Construction Method Statement following best practice, a Construction Environmental Management Plan, and the appointment of an ECOW, proposed by the applicant and endorsed by Scottish Natural Heritage and the RSPB, will result in improvement in habitat which will have a beneficial effect on native and important species, subject to a number of conditions being attached to any consent. SNH have requested further information in the form of stand alone individual species protection plans be submitted and assessed prior to any consent being granted.

The proposal will have a degree of adverse impact on the setting of a number of Scheduled Monuments and the Garden and Designed Landscape of Craigengillan. The scale and effect of this impact is varied, and in some instances is significant but overall is not considered to have an unacceptable adverse impact.

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

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

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

(iii) on any recognised built heritage resources, including Listed Buildings, Conservation Areas, Scheduled Ancient Monuments, archaeological sites and landscapes and Historic Gardens and Designed Landscapes and their individual settings;

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

(v) on existing infrastructure

Developers will also be required to demonstrate to the satisfaction of the Council that all energy production will be generated either at, or in as close proximity as possible to, the source of materials used in the generation process and that there will be no unacceptable adverse environmental impact caused by any proposed connections linking the proposed development with the national grid and the surrounding road network.

Policy CS12 provides a general support for renewable energy proposals provided that they do not have significant adverse impact on a number of different criteria. This reflects the position set out within SPP. As noted elsewhere, it is considered that there are significant adverse impacts on local communities by way of visual impact from the development when looking from the west, south west and north in particular and generally when viewed from beyond 5km from the site. Further adverse effects are experienced by the western areas of Craigengillan Garden and Designed Landscape, the A713 tourist route and Loch Doon and its surrounding landscape. Leading on from this, the adverse effects experienced by the communities by way of visual impact equates to a general adverse impact on the amenity of the area as well as the local landscape setting.

6.10 Policy CS14 advises that the Council will assess all applications for wind farm developments, including extensions to existing, consented and / or

operational wind farms, against the provisions of Policy ECON 7 of the approved Ayrshire Joint Structure Plan: Growing a Sustainable Ayrshire and any future supplementary planning guidance to be prepared relating to cumulative impact. Policy ECON7 states:

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

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

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

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

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

- (i) Historic environment;
- (ii) Areas designated for their regional and local natural heritage value;
- (iii) Tourism and recreational interests;
- (iv) Communities;
- (v) Buffer zones;
- (vi) Aviation and defence interests;
- (vii) Broadcasting installations.

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

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

Note (i):

In order to assist in the assessment process, the Rural Area Proposals Map defines an Area of Search for large scale wind farm development. This

defines the boundaries of the Area of Search indicated in the structure plan Key Diagram and referred to in parts A and E of Policy ECON7.

Note (ii):

In order to help developers minimise the environmental and visual impact of their wind farm proposals, the Council intends, in conjunction with North and South Ayrshire Councils, to prepare detailed supplementary guidance pertaining to the cumulative impacts of wind farm developments. The supplementary guidance to be prepared will be adopted by the Council, following discussion and engagement as a material consideration in the assessment of all new wind farm proposals and developers will be expected to pay due regard to the provisions of the guidance in the formulation of their proposed developments.

This policy largely replicates the content of policy ECON 7 of the Ayrshire Joint Structure Plan and a full response to that policy is provided at section 6.3 above.

6.11 Policy CS15 states that the Council will, if mindful to grant planning permission for a commercial wind farm development, require applicants to contribute to a dedicated Renewable Energy Fund which will be used to finance sustainable community environmental projects, particularly those designed to help reduce carbon emissions and counteract global warming. For a period of 10 years from the commencement of construction work on the wind farm, all contributions will be directed exclusively to local projects within 10 kilometres of the boundary of the wind farm. Thereafter, 50% of the contributions received will be directed towards local projects with 50% being reserved for use in the wider East Ayrshire area. Contributions will be payable annually and be set at a standard rate of £2500 per megawatt of installed capacity per annum, index linked to 1 January 2008.'

The applicant has indicated that they are willing to contribute toward the Renewable Energy Fund should planning consent be granted.

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

Should planning consent be granted it is recommended that a planning condition be attached to address the requirements of this policy.

6.13 Through Policy T3 the Council will require developers, in formulating their development proposals to meet all of the requisite standards of the Council as Roads Authority. Developments which do not meet these standards will not be considered acceptable and will not receive Council

support. Of particular relevance to this application developers should ensure that their proposed developments (iii) incorporate all necessary measures to minimise pedestrian and vehicular conflict.

The Roads Division has raised no objections to the development subject to planning conditions. The erection of the wind turbines themselves, as well as the associated access tracks and infrastructure, will result in significant additional road traffic in the local area. The applicant has advised that turbines will be delivered via Port of Ayr Docks. This minimises the distance that the turbine components require to travel and represents best practice. The Roads Division has confirmed that further study will be required and works will require to be undertaken at Boneston Bridge near Hollybush however they raise no objections to the development in principle. The Environmental Statement contains a number of conflicting figures regarding the number of HGVs journeys required during construction. A notable example is that of the amount of rock required during construction. The development will cause a significant increase in HGV traffic on minor roads not structurally designed for such traffic including B741, Gateside and Broomknowe in Dalmellington. Structural assessment and pre works dilapidation and video survey will be required to be undertaken by the applicant and agreed with the Council prior to any commencement of works on site. These matters and more detailed roads and traffic issues can be covered by the imposition of planning conditions or be included in a S96 Roads Agreement.

6.14 Through ENV1, the Council will seek to protect, preserve and enhance all built heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Historic Gardens and Designed Landscapes, Scheduled Ancient Monuments and Archaeological and Industrial Archaeological Sites and Landscapes.

As noted above, The Kings Cairns Scheduled Ancient Monument, a prehistoric monument, is located within 65m of the site, however whilst the proposal does not entail direct development on the Monument, the setting of the Monument will be affected. Historic Scotland have advised that three turbines which affect the setting, views to and from the cairns be relocated further away from the monument. There are a number of Listed Buildings and Dalmellington Conservation Area within 5km of the proposed site however due to the topography of the area the location of the development it is not considered that they will not be significantly affected. The Craigengillan Estate is designated as a Designed Garden and Landscape and the viewpoint images show that the proposed wind farm will be visible from parts of the Estate. The development is not however considered to adversely affect the integrity or setting of any of these features to an extent that renders the proposal unacceptable or considered to be of such an affect overall as to be contrary to this policy.

6.15 Policy ENV3 gives prime consideration to the protection and enhancement of the landscape in the consideration of development proposals within the Sensitive Landscape Character Area. The Council will ensure all development proposals in these areas respect, in terms of design, size, scale, and location, the local landscape characteristics of the particular area.

The application site is located between two Sensitive Landscape Character Areas with turbines located adjacent to the boundary of the eastern Sensitive Landscape Character Area. Whilst this does not in itself present a barrier to the proposal, it does require that greater consideration be given to the impact on the landscape.

The landscape of the site consists of a series or group of rounded summits and ridges, planted with four mature commercial forests. The siting of the turbines and the proposed deforestation will result in the proposed wind farm becoming a significant feature in the landscape when looking from the west, south west and north in particular and generally when viewed from beyond 5km from the site. When viewed from more distant locations, over 10km away, the development remains prominent and visible, the effect on the Sensitive Landscape Character Areas remains adverse.

6.16 Through ENV8, developments affecting Historic Gardens and Designed Landscapes shall protect, preserve and enhance such places and shall not impact adversely upon their character, upon important views to, from and within them, or upon the site or setting of component features which contribute to their value.

The development will be clearly visible from parts of the Craigengillan Estate and will have an impact on its setting. However, the applicants' assessment of this impact finds that it is restricted to the less sensitive parts of the Estate, a view shared by Historic Scotland. Although there will be an adverse impact on parts of the Estate it is not considered to be of such affect overall as to be significant.

6.17 Through Policy ENV15, the Council will not be supportive of development which would cause unacceptable and irreparable damage to important landscape features within rural areas. Developers will be expected to conserve and enhance those features that contribute to the intrinsic landscape value and quality of the area concerned and which are likely to be adversely affected by the particular development proposed including, of relevance to this application,

- (i) existing setting of settlements and buildings within the landscape;

The impact of the development on the landscape of the local area is considered to be adverse with effects likely to be significant and development will be visually intrusive by its very nature. Although not significantly visible from within the settlements of Dalmellington and Bellsbank the development will become highly visible from the

approaches to these settlements particularly from the west, including the Garden and Designed Landscape of Craigengillan Estate, south west (Loch Doon) and north on the A713 and from the higher landscape to the south.

(ii) existing burns, rivers, lochs and other water features;

Although not having a physical impact on the adjacent valuable asset of Loch Doon the proposed wind farm will result in sustained visual impacts from the western side of Loch Doon. Visitors will experience continuous views of this large scale wind farm on the horizon above the loch in a previously wild landscape.

(v) existing Public Rights of Way, footpaths and bridleways;

There is one Public Right of Way, four Core Paths and one Cycle Route that cross the boundary of the application site. The development will not adversely affect these routes by way of physical interruption but will have a significant impact on the setting of these routes.

(vi) existing skylines, landform and contours.

The potential impact of the proposed wind turbines on the skylines in the surrounding area, particularly as seen from the west, south west and north in particular and generally when viewed from beyond 5km from the site, would be considerable. Further adverse effects on the skyline are experienced by the western areas of Craigengillan Garden and Designed Landscape, the A713 tourist route and Loch Doon and its surrounding landscape. A significant number of turbines will be visible on the skyline either in part, with hub and blades visible or full height turbines from many locations. From many more distant and upland locations the full wind farm will be visible and will be seen in conjunction with a number of other wind farms.

6.18 Local Plan policy ENV16 states that the Council will not be supportive of development that would create unacceptable visual intrusion or irreparable damage to the landscape character of the rural area. Development should be in keeping with, have minimal visual impact and reflect the nature and landscape character of the rural areas in which it is located, in terms of layout, materials uses, design, size, scale, finish and colour.

It is considered that the proposed development will create significant visual intrusion to the landscape and the landscape character of the area for the duration of the operation of the wind farm. It is accepted that, by their very nature, wind farm developments will always result in a certain degree of visual intrusion to the existing natural landscape. When viewed from distance, the turbines clearly remain visible however their size is negated by the scale of the surrounding environment, the clustered nature of the turbines and the backclothing that is available. However, in more local views the benefits derived from the scale of the

landscape is less noticeable with the turbines taking on a more prominent appearance where they become the dominant feature in the landscape character and visually. To a large extent this cannot be avoided however the effect can be minimised by good layout and design. In local views and in particular from the settlements, the intervening landscape provides some degree of terrain shielding however this same landscape creates a disjointed and distracting appearance where the turbine layout is not as clearly legible. This does create a significant visual intrusion and adversely affects the landscape character of the area.

The landscape of this site consists of a series or group of rounded summits and ridges, planted with four mature commercial forests. The siting of the turbines and the proposed deforestation will result in the proposed wind farm becoming a significant feature in the landscape when looking from the west, south west and north in particular and generally when viewed from beyond 5km from the site. When viewed from more distant locations, over 10km away, the development remains prominent and visible, the effect on the Sensitive Landscape Character Areas remains adverse.

6.19 Policy ENV17 places a general presumption against certain types of development, including criterion (iv) that which would have a significant unacceptable adverse visual impact or cause irreparable damage to the landscape character and scenic quality of the area within which it is proposed.

See response to 6.18 above.

6.20 Policy ENV20 states that the Council will ensure, wherever possible, that the environmental quality of the main strategic access and tourist routes through East Ayrshire is not compromised by inappropriate, unacceptable or insensitive development. All developers whose proposals lie adjacent to these routes will be required to demonstrate to the Council that their developments are adequately screened and landscaped so as to minimise any adverse impact they may otherwise have on their environmental setting.

The site lies to the northwest of the A713 which is an important route within East Ayrshire serving the Doon Valley. The route is an important tourism corridor connecting Ayrshire with the Southern Uplands. Given the nature of wind farm development, screening and landscaping cannot be utilised to 'hide' the development. In this instance the development will be visible from many stretches of the A713. It is also visible from most minor roads leads off the A713 connecting this route to key tourist areas such as Loch Doon, the Galloway Forest Park and the village of Straiton . The impact that the development will have on the local landscape setting is considered to be detrimental to the local area and will adversely affect the overall environmental quality of this route.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

7.1 The principal material considerations relevant to the appraisal of the application are consultation responses, representations, Scottish Government National Energy Policy, National Planning Framework 3, Scottish Planning Policy on Renewable Energy, Scottish Government Guidance on Onshore Wind Turbines, Scottish Government Policy on the Control of Woodland Removal, Ayrshire Joint Planning Steering Group Wind Farms: Addendum to the Ayrshire Joint Structure Plan Technical Report TR03/2006, PAN1/2011 on Noise, the Planning Authority's Noise Consultant Report (ACCON Ltd.) and the Planning Authority's Landscape Architect Consultant Report (Ironsides Farrar) and The East Ayrshire Landscape Wind Capacity Study 2013. In this case the planning history is of particular relevance as the application site has been subject to an appeal, as is the Council's approach to decommissioning and restoration as set out in Reports to Council dated 24 May 2013, 19 September 2013 and 28 January 2014 and the Report to Cabinet on 21 May 2014 on decommissioning, restoration, aftercare and mitigation financial guarantees.

Scottish Government National Energy Policy

7.2 The Climate Change (Scotland) Act 2009 sets out the Scottish Government's key commitments in terms of environmental legislation which promotes reductions in greenhouse gas emissions. Part 1 of this Act creates the statutory framework for reduction of greenhouse gas emissions in Scotland by setting an interim 42% reduction target for 2020 and an 80% reduction by 2050. The Act also requires Scottish Ministers to set annual targets for Scottish emissions from 2010 to 2050.

7.3 The Scottish Government's Renewable Electricity Generation Policy Statement (REGPS) June, 2013 sets out the Scottish Government's plans for renewable energy and fossil fuel thermal generation in future energy mixes. The EGPS indicates the Scottish Government's amended target of delivering the equivalent of at least 100% of gross electricity consumption from renewable by 2020. It is confirmed that this target does not mean that Scotland will be 100% dependent on renewable generation; renewable will form part of a wider, balanced electricity mix, with thermal generation continuing to play an important role

7.4 National energy policy in Scotland, through the planning framework, indicates that the aim of national planning policy is to develop Scotland's renewable energy potential whilst safeguarding the environment and communities. In this case, the significant adverse landscape and visual impacts of the wind turbines on the surrounding environment outweighs the contribution of the proposed scheme towards national energy targets.

National Planning Framework 3 (NPF3)

7.5 NPF3 is a long term strategy for Scotland. It is the spatial expression of the Government Economic Strategy, and its plans for development and investment in infrastructure. As part of the transition to a low carbon economy it advises that the ambition is to achieve at least an 80% reduction in greenhouse gas emissions by 2050 and looks to achieve the generation equivalent of at least 100% of gross electricity consumption from renewables by 2020. NPF3 recognises that an energy generation mix will continue to be required.

7.6 Section 3.23 of NPF3 advises that onshore wind will continue to make a significant contribution to diversification of energy supplies. It notes that wind farms should not be located in national parks or national scenic areas. It advises that the required spatial framework will be set out in SPP to guide new energy developments to appropriate locations, taking into account important features.

7.7 Whilst NPF 3 offers a general support for on shore wind as part of Scotland's energy mix, it does note that there are areas where developments are unacceptable and, through the SPP spatial strategy, areas where they may be appropriate but 'taking into account important features'. As such it is clear that NPF 3 does not offer unequivocal support to onshore wind proposals but rather it requires that full consideration of all developments against appropriate criteria takes place. In this respect the development is not considered to be an appropriate location as it does not reflect the scale and character of the landscape and results in significant adverse landscape and visual impacts, including cumulative impacts, especially on local landscapes and settlements. Furthermore, unacceptable adverse effects on cultural heritage features, important tourism and recreational routes and facilities are also experienced which indicates that this is not an appropriate location for a wind farm.

7.8 Consequently the proposal is inconsistent with the provisions of NPF 3.

Scottish Planning Policy - Wind Farms (SPP)

7.9 SPP advises at part 154 that the planning system should support the transformational change to a low carbon economy, consistent with national objectives and targets. It should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity and should guide development to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

7.10 Part 161 regarding onshore wind advises that Planning Authorities should set out in the development plan a spatial framework identifying those

areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities. The SPP includes a spatial framework made up of three 'groups' of areas.

7.11 Group 1 relates to National Parks and National Scenic Areas where wind farms will not be acceptable. Group 2 relates to areas of significant protection and includes designations and interests where wind farms may be appropriate in some circumstances and consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation. Such designations include, amongst others, SSSI's, Gardens and Designed Landscapes, areas of wild land and separation of up to 2km from cities, towns and villages with the extent of the separation determined by the planning authority based on landform and other features which restrict views out of the settlement. In group 3 areas wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

7.12 Part 163 advises that the spatial framework approach should be followed in order to deliver consistency nationally and additional constraints should not be applied at this stage. The spatial framework is complemented by a more detailed and exacting development management process where the merits of an individual proposal will be carefully considered against the full range of environmental, community, and cumulative impacts. It notes that individual properties and settlements not identified in development plans will be protected through local development plan policy (part 164).

7.13 Part 169 sets out the likely considerations that should be taken into account in the determination of wind farm proposals. These include a large number of issues but particularly relevant to this proposal are net economic impact, the scale of contribution to renewable energy generation targets, effect on greenhouse gas emissions, cumulative impacts, impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker, landscape and visual impacts, impacts on the historic environment, including scheduled monuments, listed buildings and their settings, impacts on tourism and recreation, impacts on aviation, the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration and the need for a robust planning obligation to ensure that operators achieve site restoration.

7.14 Finally, paragraph 173 on community benefit advises that where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit in line with the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments document.

7.15 The provision of a spatial framework for wind farm development provides clearer guidance on areas where wind farm development may or may not be acceptable. The group 1 areas are not applicable to East Ayrshire however the areas of significant protection set out within group 2 will be relevant in many cases. Group 2 highlights the sensitivity of the

designations and interests contained within it and requires that significant effects on the qualities of these areas can be substantially overcome therefore providing a stricter test for wind farm acceptability than group 3 areas where assessment will take place against identified policy criteria. Notwithstanding this however, the considerations laid out at part 169 of SPP would be relevant to groups 2 and 3.

7.16 The development plan for East Ayrshire preceded the updated SPP. Despite this it complies with the key requirements of SPP in that it has identified areas of search where large and small scale wind farms will be suitable in principle and also sets out the criteria against which wind farm proposals will be assessed, as noted at section 6.

7.17 At the time of writing the Report SNH have been unable to clarify which Group this development falls within and hence whether it is within an area of requiring significant protection. However, the proposal results in a significant and unacceptable adverse impact on a number of other considerations set out in SPP including: landscape and visual impacts, communities, tourism and recreation features and contributes to unacceptable adverse cumulative impacts on settlements, properties, landscapes and routes. These matters are set out through the development plan policies at section 6. Whilst its contribution to renewable energy targets, effect on greenhouse gas emissions and socio economic benefits are noted they are not considered to outweigh the significant harm associated with this proposal.

Scottish Government Policy on Control of Woodland Removal

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

7.19 The consultation response received from Forestry Commission Scotland indicates that they were broadly content with the proposed development and the contents of the Environmental Statement.

Scottish Government Guidance – On Shore Wind Turbines

7.20 The number of on shore wind farms has grown substantially over the last 10 years with Planning Authorities having to consider turbines within lower lying more populated areas, where design elements and cumulative impacts need to be managed. In accordance with Government Guidance East Ayrshire Council identified, through its Local Plan, a spatial framework for large scale wind farms of more than 20 MW and also addressed the potential for smaller wind farm schemes.

7.21 Amongst others, this Government guidance lists criteria to be considered in the determination of planning applications for on shore turbines.

In the case of the proposal at South Kyle the significant criteria to be assessed are; landscape and visual impact, cumulative landscape and visual impacts and aviation impacts.

7.22 In terms of landscape and visual impact and cumulative impacts the proposed South Kyle wind farm exceeds the capacity of the landscape in which it is located, manifested in the landscape and visual effects on the site and surrounding sensitive receptors. The proposed wind farm would lead to some significant adverse cumulative landscape and visual effects with nearby operational and consented wind farms. SNH considers that the effects are particularly noticeable with the consented Windy Standard extension wind farm, due to differences in turbine size. Taken together with the in-application wind farms at Afton and Ashmark Hill these proposals would add significantly to cumulative effects. Two further section 36 wind farms, proposed since the South Kyle application was lodged, could lead to further significant combined cumulative effects on sensitive receptors.

7.23 In terms of the impact on aviation safety NATs maintains its objection to the proposed development on the basis that 12 of the turbines would have an adverse impact to primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at the Prestwick Centre. Glasgow Prestwick Airport has withdrawn its initial objection subject to conditions being attached to any consent as they have now entered into a legal agreement with the applicant to find an agreed solution to the wind farm being detected by Primary Surveillance Radar (PSR) and SMAA resulting insignificant adverse impact on safety and efficiency of its Air Traffic Control Service.

7.24 The relevance of On Shore Wind Turbine Guidance is considered in the context of the Ayrshire Joint Structure Plan 2007 and the East Ayrshire Local Plan 2010. The proposal fails to comply with the criteria of on shore wind turbine guidance in terms of the significant unacceptable adverse landscape and visual impact, cumulative landscape and visual impacts and unresolved adverse aviation impacts.

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

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

7.26 In terms of the Addendum the proposed site is not located in an area afforded significant protection from the effects of large scale wind farms. The Addendum requires that an assessment be undertaken against relevant

development plan policies to protect the interests of designated sites. This assessment has been undertaken at part 6 of this report.

7.27 Part 14 of the Addendum refers to cumulative impacts and clarifies that these will frequently involve landscape and visual impacts but may also affect natural heritage designations and aviation interests. In this case there are no statutory natural heritage designations within the application site but issues of landscape and visual impact are fundamental to the proposal. In terms of landscape and visual impact and cumulative impacts the proposal exceeds the capacity of the landscape in which it is located, manifested in the landscape and visual effects on the site and surrounding sensitive receptors. In terms of the impact on aviation safety, as set out above, NATs maintains its objection on the basis that 12 of the turbines would have an adverse impact to primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at the Prestwick Centre. Glasgow Prestwick Airport have now entered into a legal agreement with the applicant to find an agreed solution to the wind farm being detected by Primary Surveillance Radar (PSR) and SMAA resulting insignificant adverse impact on safety and efficiency of its Air Traffic Control Service.

7.28 Part 26 and 27 of the Addendum refers to the need to protect important tourist assets from inappropriate development. It lists a number of regionally significant tourist resources including the Galloway national tourist route along the A713 and the Doon Valley. As set out above the proposed wind farm will have an adverse impact on these resources together with other significant tourist assets including the Loch Doon, Craigengillan Estate, The Scottish Dark Sky Observatory and the Biosphere and Dark Sky Park Designations.

Noise

PAN 1/2011

7.29 PAN 1/2011 provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. Site selection and the design of the development and any conditions that may be attached to any consent can all play a part in preventing, controlling and mitigating the effects of noise.

7.30 Para 18 of PAN 1/2011 states that “when considering applications for new noise sensitive development close to an existing noise source, the likely level of noise exposure at the time of application and any increase that may reasonably be expected in the foreseeable future are likely to be relevant, as will the extent to which it is possible to mitigate the adverse effects of noise.

7.31 Para 29 of the PAN refers to wind turbines and indicates that “good acoustical design and siting of turbines is essential to minimise the potential to generate noise.”

7.32 In this case the Planning Authority consulted with Accon Ltd (the Council’s independent Noise Consultant) to assess the submitted

environmental statement noise chapter and to provide a report. This report is attached as a background paper and the findings are referred to below.

Noise Consultants - Accon Ltd

7.33 On behalf of the Planning Authority Accon Ltd assessed the applicant's environmental statement noise section and made a number of observations on the submitted noise assessment.

7.34 The applicant's assessment in respect of noise was carried out by Ion Acoustics Limited (ion) who have also utilised earlier baseline noise assessment work carried out by the Hayes McKenzie Partnership (HMP). The documentation and methodologies which were relied upon for the assessment follow the advice in ETSU-R-97 and an article published in the March /April 2009 issue of the Acoustics Bulletin published by the Institute of Acoustics. Since that time there has been the publication of the IOA 'A Good Practice Guide To 'The Application Of ETSU-R-97 For The Assessment And Rating Of Wind Turbine Noise, May 2013'. The IOA guidance has subsequently been endorsed by the Scottish Government. No explanation has been provided by the applicant as to why the 2013 IOA Good Practice Guide has not been utilised and it can only surmise that this guidance was not used or referenced because at that time it had not been endorsed by the Scottish Government.

7.35 Baseline noise measurements were carried out by the applicant during the period from 20th March to 3rd April 2012. The measurements were carried out at six sensitive receptor locations. At the same time wind speed measurements were obtained from a 50m permanent anemometry mast located on Prickeny Hill. The approach to obtaining a fit between the noise measurement data and the wind speeds is considered to have been correctly carried out. In terms of predicted noise levels the Council's noise consultant notes that the applicant in utilising the 8m/sec predicted noise levels would result in the predicted noise levels being approximately 2.5 to 6dB below the derived noise limits for the daytime amenity hours. It will be important that if any consent is given that this 'headroom' is maintained.

7.36 Cumulative noise impact assessments of the South Kyle, Existing, Operational, Consented and Proposed Schemes have been carried out by the applicant. The approach used is considered to be in line with the advice in the GPG and represents best practice. Mention has been made by the applicant in the noise assessment of Excessive Amplitude Modulation (EAM). Where EAM results in nuisance, then appropriate action can be taken by the Local Authority.

7.37 In respect of construction noise the predicted noise levels are considered by the Council's noise consultant to be very much worst case assumptions and whilst the noise levels are significantly higher than the existing noise climate, they are temporary in nature and should not result in a significant impact.

7.38 Consequently in order to protect the amenity of local residents any consent should be conditioned with noise limits broadly based on the applicant's predicted noise levels for the daytime period. Elsewhere, a night-time limit of 38LA90 as proposed could be adopted for this development as it would not constrain the operation of the proposed wind farm. Additionally, it would be appropriate to ensure that any post commissioning noise measurements are followed up by continuous noise monitoring for at least one of the sensitive receptor locations. The noise monitoring should be for a period of at least one year and possibly longer. A condition to control EAM would be appropriate, although it is recognised that at this time there is still considerable debate as to what should be included in an appropriate planning condition.

7.39 Accon Ltd concluded that if the ETSU-R-97 derived noise limits are adopted, which in themselves are only thought to provide a sufficient level of protection from noise, then the operation of the wind farm should be acceptable as the predicted noise levels are lower than those derived noise limits.

Landscape Consultants – Ironside Farrar

7.40 In response to the Cabinet report of 21 May 2014 the above consultants have been procured to allow an assessment by the planning authority's consultant landscape architects assessed the landscape and visual impact section of the applicant's submitted environmental statement and concluded the following:

- The proposed South Kyle wind farm is a reduced scale scheme of 50 turbines, submitted following the appeal refusal of the Kyle wind farm application comprising 100 turbines submitted in 2004 then reduced to 85 turbines in 2006 which was refused at appeal in 2007. The current scheme includes a greater proportion of the turbines located in Dumfries and Galloway. The previous scheme was refused for two principle reasons: adverse effects on the landscape and views and adverse effect on aviation.
- Ironside Farrar considered that the Landscape and Visual Impact Assessment carried out by the applicant does not identify all of the potentially significant adverse effects on receptors such as landscape areas, settlements, recreational walkers, tourists and road users.
- They agree that proposed scheme conforms to some degree, but not fully, with strategic landscape and capacity guidance on wind energy. However state that in guidance terms the proposal exceeds the capacity of the landscape in which the wind farm is located, manifested in the landscape and visual effects on the site and surrounding sensitive receptors. This is also highlighted by SNH in their consultation response to the Scottish Government.

- However, Ironside Farrar do not agree with the applicant's assessment of landscape and visual impacts that the proposals would not lead to significant visual and cumulative visual effects. They note that SNH considers that the effects are particularly noticeable with the consented Windy Standard extension wind farm, due to differences in turbine size. Ironside Farrar consider that the pending application wind farms at Afton and Ashmark Hill would add significantly to cumulative effects. The effects of all wind farms together on the nearby hilltop viewpoints would be particularly overwhelming. They also highlight that two further section 36 wind farms, proposed since the South Kyle application was lodged, could lead to further significant combined cumulative effects on sensitive receptors.

7.41 In conclusion, Ironside Farrar agree that, with acceptance of some significant adverse landscape and visual effects, an extensive wind farm could be accommodated in this location. However, the current proposals exceed the capacity of the landscape in which they are located. They note and agree with SNH that some of the turbine visibility, 'stacking' and cumulative effects of the current proposals could be mitigated by relocating and reducing the size of some turbines. They also stress that, if consent were granted for all applications for wind farms as well as South Kyle, there would be significant and extensive adverse cumulative effects on the Doon Valley, Southern Uplands and New Cumnock areas.

The East Ayrshire Landscape Wind Capacity Study 2013 (EALWCS)

7.42 According to the EALWCS the landscape character type of the application site is Southern Uplands with Forestry. The predominantly rounded hills of this character type is assessed as having reduced sensitivity to larger wind turbine typologies, however the likely effects on views from the Doon Valley and on the setting and views from the Loch Doon area and the settlement of Dalmellington are key constraints. Cumulative effects would also be likely to occur in conjunction with the operational/consented Windy Standard I and II wind farm, particularly where multiple developments were seen on the backdrop of hills which contain Loch Doon. In relation to capacity for further development it is concluded that there is very limited scope for further turbine development of larger scale (>70m) turbines.

7.43 The EALWCS recommended that turbines should be set well back from the more sensitive western edges of these uplands and should avoid significant impact on the setting of Loch Doon and the upper Doon valley including the settlement of Dalmellington. Potential cumulative effects with the operational Hare Hill, operational and consented Windy Standard I and II wind farms should be considered carefully. A key cumulative issue to consider will also be any contrasts in design layout that may be obvious in key views between the more clustered form of the nearby operational Hare Hill wind farm and more linear layouts likely to be adopted in the eastern part of this character type. It is therefore recommended that regular review of the

changing cumulative situation is undertaken when considering proposals for all turbine developments in this, and adjacent, character types.

7.44 In this case the proposal is for turbines in excess of 70 metres in height which will impact on the setting of Loch Doon and the upper Doon valley including the settlement of Dalmellington. If consented taken with existing, consented and in application wind farms there would be significantly adverse cumulative effects.

Planning History

7.45 As indicated at the beginning of this report, there has been a previous planning application for a wind farm at this site:

- Section 36 Application Kyle Wind Farm for the erection of 100 wind turbines to a maximum height of 125 metres, submitted to the Scottish Government in 2004 by Amec Projects Investments Ltd and subsequently amended in 2006 to 85 turbines. The application was refused in 2008 by Ministers after a public inquiry in 2007. Ref IEC/3/73

7.46 A fundamental consideration in the assessment of the proposal at South Kyle Wind Farm is the decision by the Scottish Ministers to refuse planning permission on the proposed 85 wind turbine application at Kyle as the current site forms part of that site and therefore relates to the same area and local environment.

7.47 The Scottish Ministers decision to refuse deemed planning permission was based on:

- the proposals will have an unacceptable landscape and visual impact
- the application would impact adversely on aviation safety and that granting consent with negative conditions would be unacceptable

7.48 This current S36 application is for a reduced scheme of 50 turbines on the southern part of the original site, however the turbine height has increased by 24.5m to 149m.

Consultation Responses

7.49 The consultation responses received by this Division raised a number of matters. The Roads Service have offered no objections however raised a number of concerns regarding the effect of the heavy volume of timber, construction traffic and abnormal loads on the public road network. These issues could be addressed through planning conditions attached to any consent.

7.50 A wide ranging and detailed objection was submitted by Dalmellington Community Council raising key issues primarily to visual impact on a number of receptors including the local settlements, historic features, natural heritage and Craigengillan Garden and Designed Landscape. This is strongly linked to the tourism resource of the area and the desire of the local community to build a future based on tourism through the Biosphere designation and Dark Sky Park and Observatory which they consider will be adversely impacted upon by this proposal the full details of which are addressed in section 4.4 above. In addition a supporting representation was submitted by Patna Community Council welcoming the benefits that the development would bring to the residents and local area.

7.51 Consultation Responses to the Energy Consents and Deployment Unit of the Scottish Government also raised a number of issues. At the time of writing of this report NATs maintains its objection to the proposed development on the basis that 12 of the turbines would have an adverse impact to primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at the Prestwick Centre. In addition, Glasgow Prestwick Airport has withdrawn its initial objection subject to conditions being attached to any consent as they have now entered into a legal agreement with the applicant to find an agreed solution to the wind farm being detected by Primary Surveillance Radar (PSR) and SMAA resulting insignificant adverse impact on safety and efficiency of its Air Traffic Control Service.

7.52 Both Historic Scotland and Scottish Natural Heritage (SNH), the main Government agencies for built and natural heritage have raised no objection to the development. Historic Scotland does not consider the impact on historic environment features such as Scheduled Ancient Monuments, Garden and Designed Landscapes and A listed buildings as being of such impact as to warrant an objection subject to planning condition. Scottish Natural Heritage also have raised no objection but has suggested a significant number of conditions should consent be granted. It should be noted however that SNH comments raised concerns over the potentially significant impact of the proposed development on views from Loch Doon.

7.53 The Scottish Wildlife Trust objected to the proposed wind farm requiring further bird surveys to be undertaken and noting that 5 turbines were proposed on blanket mire an important habitat and that a further 7 turbines were located on deep peat areas which will have a significant impact on this peatland habitat.

7.54 Scottish Power Energy Networks maintain a holding objection whilst seeking a separation distance from overhead power lines of more than three times the turbine rotor diameter.

7.55 Scottish Dark Sky Observatory objected to the proposed wind farm on the basis that infra-red lighting and more seriously impacting visible lighting on the turbines is likely to be required by the MoD which would be visible to

astronomical imaging systems, would add to light pollution and lighting beyond the horizon, at compounds and buildings would add to skyglow.

7.56 Dumfries & Galloway Council had no objections subject to a number of conditions being attached to any consent.

Representations

7.57 A significant number of objections (totalling 1241) to this development have been received by the Scottish Government together with 21 letters of support. The objections are largely based on the detailed comments of the Community Council. The main areas of concern for objectors relate to the visual impact of the development, the effect of the development on local communities and historic assets, the adverse effect on tourism that the development creates, the adverse effect on ecology, wildlife and the environment, the lack of community benefits and the local economy, contrary to the Ayrshire Joint Structure Plan and East Ayrshire Local Plan and the potential to adversely affect the Dark Sky Park and Biosphere.

7.58 A detailed account of each issue raised is provided under section 5 however a condensed response to several key overarching issues is provided as follows: Landscape and Visual Impact, natural heritage, Craigengillan Garden and Designed Landscape/historic assets and the impact on tourism. Many of these issues are interlinked and cover significant swathes of issues.

7.59 Taking first the landscape and visual impact It is considered that the proposal will result in a significant change in the character and appearance of the local area. It is accepted that wind farms, by their very nature, are prominent features in the landscape and will offer a degree of visual intrusion. However in this case it is considered that the visual intrusion is exacerbated by the siting of the turbines, on a series or group of rounded summits and ridges, together with the proposed deforestation will result in the proposed wind farm becoming a significant feature in the landscape. This is evident when looking from the west, south west and north in particular and generally when viewed from beyond 5km from the site. When viewed from more distant locations, over 10km away, the development remains prominent and visible. In addition, the cumulative impact of this wind farm, taking into account operational wind farms, and the submitted Section 36 applications and planning applications for wind farms could lead to significant and extensive adverse cumulative effects. The current proposals exceed the capacity of the landscape in which they are located.

7.60 In terms of natural heritage it is agreed that a degree of impact on some bird species may occur as a result of this development however it is not considered to be significant. Furthermore, mitigation measures, including a Construction Method Statement following best practice, a Construction Environmental Management Plan, and the appointment of an ECOW, proposed by the applicant and endorsed by Scottish Natural Heritage and the RSPB, will result in improvement in habitat which will have a beneficial effect

on native and important species, subject to a number of conditions being attached to any consent. However, SNH have requested further information in the form of stand alone individual species protection plans be submitted and assessed prior to any consent being granted.

7.61 The Kings Cairns Scheduled Ancient Monument, a prehistoric monument, is located within 65m of the site, however whilst the proposal does not entail direct development on the Monument, the setting of the Monument will be affected. Historic Scotland have advised that three turbines which affect the setting, views to and from the cairns be relocated further away from the monument.

7.62 There are a number of Listed Buildings and Dalmellington Conservation Area within 5km of the proposed site however due to the topography of the area the location of the development it is not considered that they will not be significantly affected. The Craigengillan Estate is designated as a Designed Garden and Landscape and the viewpoint images show that the proposed wind farm will be visible from parts of the Estate. The development is not however considered to adversely affect the integrity or setting of any of these features to an extent that renders the proposal unacceptable.

7.63 Turning now to the impact on tourism resources, the objectors make it clear that they consider the future of the local area is based on sustainable tourism development. This relies heavily on the recent designations of the Dark Sky Park and Biosphere Reserve and associated works such as the Observatory within Craigengillan. Furthermore, outdoor pursuits such as walking, cycling, riding and fishing have been increasing and the objectors consider that this relies very heavily on the landscape character and appearance of the area. They argue that the development will have an adverse impact on this character and appearance and therefore the tourism potential of the area will suffer accordingly. The applicant considers that there will be a negligible effect on tourism and recreation. Many of the tourism resources of the local area benefit from the impressive landscape and heritage elements of the area and the significant level of objection from the local community also appears to contradict such findings. Given that many of the tourism pursuits of the area are based on outdoor experience where one of the key purposes for a visitor is to enjoy their surroundings, it is likely that at least some visitors would be put off by a wind farm.

7.64 The Observatory would experience significant views of the wind farm and those enjoying the pathways and other outdoor pursuits would experience varied impacts although the transient nature of such pursuits (such as cycling) mean that views would be intermittent. The views from Loch Doon show that the wind farm will be visible from this popular tourist area. This increases the awareness of the wind farm from within Loch Doon. Further to this, objectors have raised a concern over the physical impacts the development would bring to the Observatory. The Observatory has recently opened and has significant potential to exploit the Dark Sky Designation. The requirement to night light the turbines, as requested by the MoD, creates the

main concern in that the light has the potential to adversely impact the imaging equipment. The Council has indicated its support for the Dark Skies initiative through the Local Plan therefore as the Observatory forms a key part of utilising the initiative to its full potential, any adverse impact on the Observatory should be discouraged. It is agreed that the tourism potential of the local area has significantly improved in the recent past and that a potential for economic spin off can be gained which would be partially affected by the development.

7.65 The letters of support consider that the location of the wind farm is appropriate, it will be good for the local economy and that wind energy is a clean form of energy generation.

Reports to Council dated 24 May 2013, 19 September 2013 and 28 January 2014 and the Report to Cabinet on 21 May 2014 on decommissioning, restoration, aftercare and mitigation financial guarantees.

7.66 The above mentioned reports to Council and Cabinet collectively set out an approach for the submission, agreement, implementation and monitoring of financial guarantees that are required in respect of the decommissioning, restoration, after care and mitigation of inter alia onshore wind farms.

Review by Independent Assessor (Ironside Farrar) on behalf of the Council

7.67 In compliance with para 24 of the Cabinet Report on Decommissioning, Restoration, Aftercare and Mitigation Financial Guarantees dated 21 May 2014 and in terms of financial security for decommissioning and restoration of the site the Planning Authority's Planning Monitoring Officer (Ironside Farrar) has carried out an assessment of the value of the decommissioning and restoration guarantee for the South Kyle development.

7.68 This assessment has concluded that the total decommissioning and restoration costs for South Kyle development would amount to: £8,165,758 including a provisional sum to cater for a 5 year aftercare of the site.

Applicant's Proposals for Financial Guarantee

7.69 In terms of securing the site decommissioning and restoration the applicant has not provided any detailed information in respect of the proposed financial guarantee other than to state that their preference is to provide a bank guarantee which would specify a maximum guaranteed amount together with an appropriate fixed expiry date.

8. FINANCIAL AND LEGAL IMPLICATIONS

8.1 There are potential financial implications for the Council in coming to a view on this application as, should the Planning Committee be minded to formally object to the proposed South Kyle development, this will trigger a Public Local Inquiry in terms of Section 62 and Schedule 8 of the Electricity Act 1989. Furthermore, if the Council is considered to have acted unreasonably in its objection to the proposed development, a claim for an award of expenses could be made by the applicant.

8.2 As stated above, should the Planning Committee approve the recommendation that the Council formally object to this proposed development then it will trigger a Public Local Inquiry in which the Council will require to participate in order to put forward its case in support of our objection. That may also lead to further costs being incurred to the extent it may be necessary to either engage expert external advice, support or representation and/or to engage professional expert witnesses to give evidence on the Council's behalf at the Inquiry.

8.3 Also as stated elsewhere within the report, (para 2.4) if the Scottish Ministers should ultimately be disposed to grant a Section 36 consent for this development that would incorporate deemed planning consent in terms of Section 57 of the 1997 Act, so no further application for planning permission would require to be considered or determined by the Council. It is therefore important that notwithstanding the Council may, subject to agreement of the Planning Committee, be objecting to the development that our position in the event of the alternative outcome – i.e. grant – is also covered in respect of relevant matters which would require to be addressed through a Section 75 Legal Agreement under the 1997 Act, or through conditions as appropriate, (as referred to throughout the report).

8.4 In this regard Heads of Agreement under Section 75 of the 1997 Act, to be concluded prior to the issue of consent under Section 36 of the 1989 Act, should comprise the following:

- Appropriate developer contributions towards the Renewable Energy Fund for the purpose of enabling mitigation measures and environmental improvements within East Ayrshire consistent with Council policy CS15.
- The developer shall provide a Planning Monitoring Officer for the development, the cost of providing this position being met by the developer.
- No section of development hereby authorised shall be commenced until a decommissioning, restoration and aftercare guarantee is provided by the developer and agreed with the Scottish Government and the Planning Authority that will secure the decommission of the turbines and the restoration and aftercare of the site.

8.5 In accordance with Council's revised arrangements for consideration of Financial Guarantees relative to certain types of development, prior to sign off in this case by the Depute Chief Executive Planning, Finance and Legal Services have all been involved in the process of assessing the applicant's proposed arrangements for securing their decommissioning and restoration obligations (as set out above) and these are considered to be generally acceptable in terms of the Bank Guarantee arrangements proposed, subject to the Council being satisfied with the credit rating of the bank, and the value being in accordance with the Ironside Farrar valuation.

9. CONCLUSIONS

9.1 As indicated in section 6 of the report, the Section 36 application and the related application for deemed planning permission are not considered to be in accordance with the development plan. As is indicated at Section 7 of the report, there are material considerations relevant to this application; it is considered that these are not supportive of the application in terms of national policy, national planning advice, the EALWCS 2013 and the planning authority's landscape consultant. There remains outstanding objections from key consultees including NATs raising aviation concerns, Scottish Power Energy Networks requiring minimum separation distances from overhead power lines, and the Scottish Dark Sky Observatory stressing the additional light pollution, additional skyglow and lighting visible on imaging systems of any proposed turbine lighting required by the MoD. The significant level of third party objection, in particular the detailed objection by Dalmellington Community Council, raise valid points that require to be taken into account in the determination of the S36 application.

9.2 The proposed South Kyle wind farm development does not comply with policies ECON6, ECON7 parts (D), (E) & (G) and ENV1(A) and ENV1 (E) of the Ayrshire Joint Structure Plan 2007.

Furthermore the proposal does not comply with policies SD1 (i), (ii) and (iii), CS12 (ii) and (iv), CS14 (D), (E), (F) and (G); and ENV15 (i), (ii), (v) and (vi), and ENV16 (i) and (ii), and ENV17 (iv) of the East Ayrshire Local Plan 2010.

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

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

- presents an unacceptable impact on tourism, views from tourist routes and facilities.
- presents and unacceptable adverse impacts to unresolved primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at Prestwick Centre.

9.3 It is considered that the proposed development, together with other existing wind farm developments (existing and proposed) will provide a generating capacity that would contribute to the Scottish Governments renewable energy 2020 target.

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

- the potential developer contribution to the Council's Renewable Energy Fund;
- the benefits accruing from the significant investment that potentially would generate economic benefits and temporary employment opportunities in the East Ayrshire economy

9.5 Taking all matters into account the potential benefits to be accrued from the proposed development do not in this instance outweigh the significant adverse unacceptable visual impacts of the proposal on residential amenity and on the landscape.

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

10. RECOMMENDATIONS

10.1 It is recommended that the Council formally objects to the Section 36 application for the reasons detailed on Appendix 1 of this report and;

10.2 It is recommended that should Scottish Ministers determine to approve the S36 application that the applicant enters into a legal agreement with East Ayrshire Council consistent with the Heads of Agreement detailed under Section 8.4 of this report and;

10.3 It is recommended that should Scottish Ministers determine to approve the S36 application that the Council enter into negotiations regarding appropriate planning conditions for the development and;

10.4 It is recommended that a copy of this report be forwarded to the Scottish Ministers as presenting this Council's formal response to the

consultation on the Section 36 application for the South Kyle development in terms of the Electricity Act 1989.

CONTRARY DECISION NOTE

Should the Committee agree that the application be supported contrary to the recommendation of the Head of Planning and Economic Development, in terms of the principle of the proposed development, then the application would not require to be referred to Council as it would not represent a significant departure from Council policy.

Alan Neish
Head of Planning and Economic Development

FV/AN

26 June 2013

LIST OF BACKGROUND PAPERS

1. Formal Consultation Letters
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letters of Representation
5. Adopted East Ayrshire Local Plan (2010).
6. Approved Ayrshire Joint Structure Plan (2007).
7. The South Kyle Wind Farm Environmental Statement
8. The South Kyle Wind Farm Planning Statement.
9. National Planning Framework 3
10. SPP – Wind Farms
11. PAN 1/2011 Noise
12. East Ayrshire Landscape Capacity Study (2013)
13. Ironside Farrar, South Kyle Wind Farm Landscape Assessment
14. Accon Ltd, South Kyle Noise Assessment

Anyone wishing to inspect the above background papers should contact Morag Neill on 01563 553505.

Implementation Officer: David McDowall, Operations Manager

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 13/0001/S36

Location	South Kyle Windfarm East Ayrshire
Nature of Proposal:	Erection of 50 wind turbines with a tip height of up to 149.5m, turbine hardstandings, connection compound, substation compound with control building, 6 permanent 100m high met masts and approximately 56.6 km of site and access roads (30.6 km new, 26.0 km upgraded).
Name and Address of Applicant:	Alison Daugherty St Andrew's House Haugh Lane Hexham Northumberland NE46 3RB
Name and Address of Agent	

Officer's Ref: Morag Neill
01563 553505

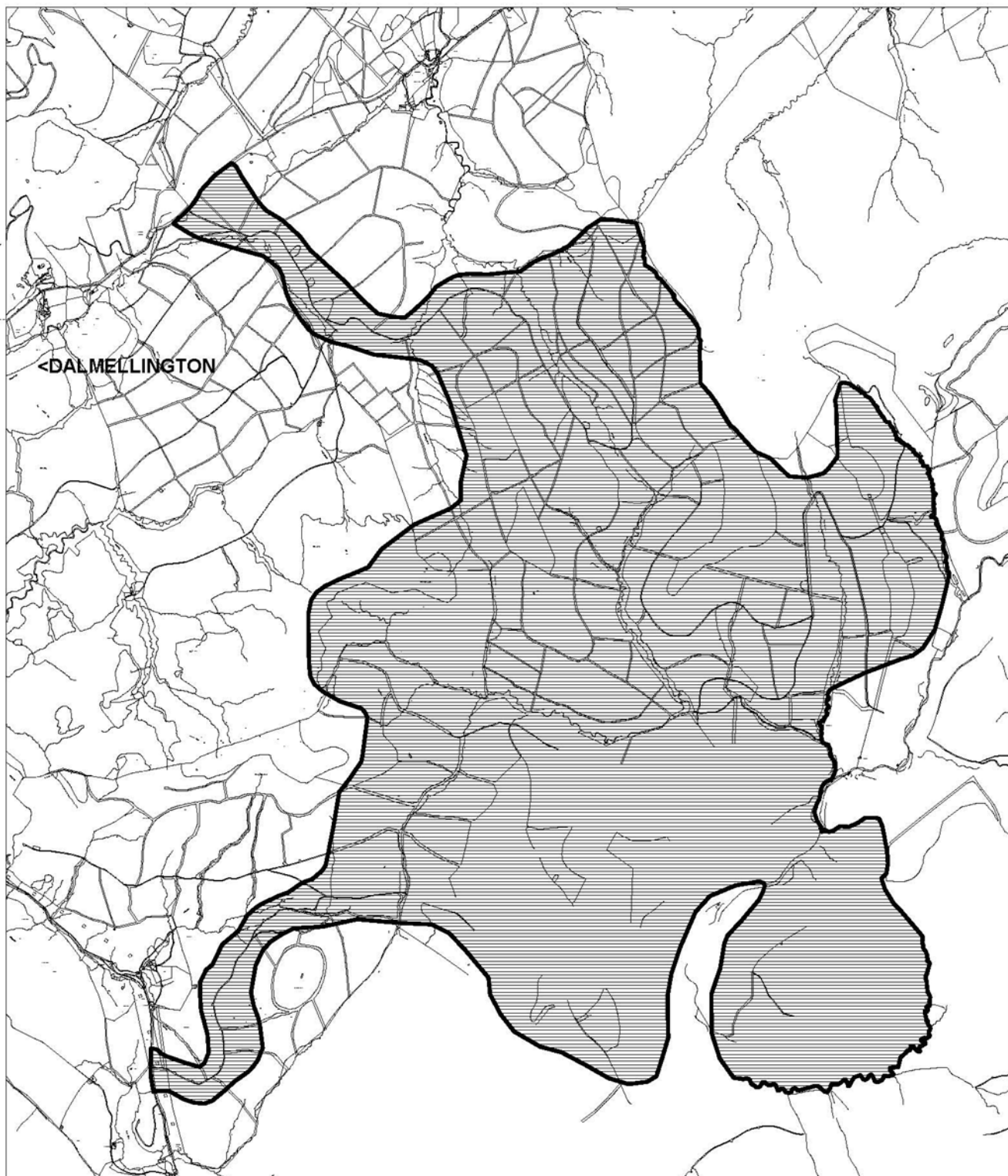
The above Section 36 application should be Refused

Reasons for recommendation to object to the Scottish Ministers:

1. The proposal fails to comply with AJSP policy ECON6 as the proposed development cannot demonstrate that there will be no significant adverse impact, including adverse cumulative impacts and the design of the development is not sensitive to and does not reflect the landscape character.
2. The proposal fails to comply with AJSP policy ECON7(D) and EALP policy CS14(D) as the proposed development results in significant adverse cumulative visual and landscape impacts. The acceptable limit of cumulative impact has been reached and the area should be afforded significant protection.

3. The proposal fails to comply with AJSP policy ECON7(E) and EALP policy CS14 in that the proposal is outside the Areas of Search and has adverse impact on a number of identified constraints.
4. The proposal fails to comply with AJSP policy ECON7(G) and EALP policy CS14(G), ENV16(i) and ENV17(iv) as the proposed development will result in significant adverse visual impacts on the landscape character and on the residential amenity of communities.
5. The proposal fails to comply with EALP policy CS12(ii) and (iv), as the proposed development results in significant adverse impacts on the residential amenity of small groups of houses in the countryside and results in adverse effects on the visual amenity of the area.
6. The proposal fails to comply with AJSP policy ENV1 (A), and with EALP policies SD1 (ii), ENV15(i) as the proposed development results in significant adverse impacts and adverse cumulative impacts on the residential amenity of properties and buildings in the landscape.
7. The proposal fails to comply with AJSP policy ENV1 (E) in terms of adverse impacts on skyline and hill features, including prominent views from residential properties and communities.
8. The proposal fails to comply with EALP policy SD1 (i) and (iii) in terms of significant adverse impacts on the character and appearance of the landscape at this location and on the landscape character and quality of the area.
9. The proposal fails to comply with EALP policy ENV15 (ii) in terms of the adverse impacts on existing rivers and lochs, including Loch Doon.
10. The proposal fails to comply with EALP policy ENV15 (v) in terms of the adverse impact on existing Public Rights of Way and footpaths.
11. The proposal fails to comply with EALP policy ENV15 (vi) in terms of the adverse visual impacts on the skyline and landform at this location.
12. The proposal fails to comply with EALP policy ENV16 (ii) as it is not sensitively sited as to respect the landscape characteristics of the particular area in which it is to be sited.
13. The proposal fails to comply with AJSP policy ECON7(E) and (G) in terms of adverse impacts to unresolved primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at Prestwick Centre.
14. The development does not satisfy all other material considerations in terms of National Planning Framework 2, Scottish planning policy, Scottish Government onshore wind turbine guidance, the wind farm Addendum to the Ayrshire Joint Structure Plan and the East Ayrshire

Landscape Wind Capacity Study 2013 in terms of the significant unacceptable adverse visual and landscape impacts of the proposal on nearby communities and on the surrounding landscape and unresolved and unacceptable adverse impacts to unresolved primary surveillance radar at Lowther Hill and consequential associated impact on NATs air traffic management operations at Prestwick Centre.

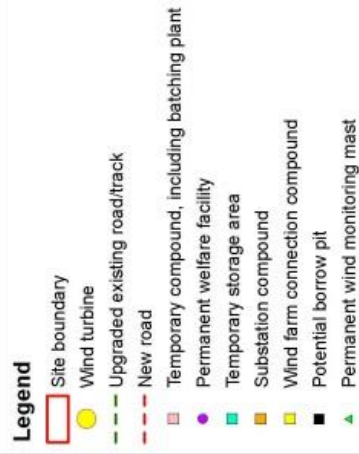


<p>Title/Location</p> <p>South Kyle Windfarm</p> <p>East Ayrshire</p> <p>Application No. 13/0001/S36</p>	<p>East Ayrshire Council</p> <p>Department of Neighbourhood Services</p> <p>Planning & Economic Development Service</p> <p>The Johnnie Walker Bond</p> <p>15 Strand Street</p> <p>Kilmarnock KA1 1HU</p> <p>Tel: (01563) 576790 Fax: (01563) 554592</p> <p>E-Mail : Planning@east-ayrshire.gov.uk</p> <p>Com Date: 4/7/2014</p>
<p>Key</p> <div data-bbox="284 1854 438 1921" data-label="Image"> </div> <p>Application Site</p>	<div data-bbox="1321 1720 1401 1899" data-label="Image"> </div>

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**SOUTH KYLE
WIND FARM**

FIGURE 2
Site Layout



Notes
1 Do not scale

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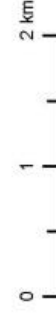


Figure 2

Drg No	6133-531-PA-036		
Rev	A	Date	26/07/2013
By	BO	Layout	LSKYLE063

