

**EAST AYRSHIRE COUNCIL**

**PLANNING COMMITTEE: 22 March 2019**

**18/0841/PP: Section 42 application to vary conditions 2, 3, 6, 7, 16, 25, and 37 of permission 08/0959/FL**

**At Penbreck and Carmacoup Forest, near Douglas, East Ayrshire**

**Application by Brookfield Renewable UK Limited**

**Report by the Head of Planning and Economic Development**

**Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/applicationDetails.do?activeTab=summary&keyVal=PHQ8FJGFH7O00>**

**EXECUTIVE SUMMARY SHEET**

**PURPOSE OF REPORT**

1. The purpose of this report is to present for determination an application for planning permission to be considered by the Planning Committee under the Council's Scheme of Delegation as the application proposes the variation of an existing condition relative to restoration and aftercare of the site.

**RECOMMENDATION**

**It is recommended that the application be approved subject to the conditions on the attached sheet and that consent be withheld until the successful conclusion of a legal agreement.**

**CONTRARY DECISION NOTE**

2. Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development the application will not require to be referred to Council.

**Michael Keane  
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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## **PURPOSE OF REPORT**

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## **APPLICATION DETAILS**

2. **Site Description:** The application site is located within the rural area on the boundary of the Authority with South Lanarkshire Council, some 7km south east of the settlement of Muirkirk. The East Ayrshire section of the site combines with a larger area within South Lanarkshire to form the wider development site. The East Ayrshire and wider development site is predominantly covered in commercial forestry. The area is sparsely populated although a core path linking Muirkirk and Sanquhar passes through the East Ayrshire section of the development.
3. Part of the application site is within the boundary of the Muirkirk and North Lowther Uplands Special Protection Area (SPA) and the Muirkirk Uplands Site of Special Scientific Interest (SSSI). No turbines or associated infrastructure are located within the SPA or SSSI however. Similarly, the Sensitive Landscape Area overlaps with part of the site but is outwith the area proposed for development.
4. **Background Information:** This application is made under Section 42 of The Town and Country Planning (Scotland) Act 1997 (as amended). Section 42 relates to the determination of applications to develop land without compliance with conditions previously attached. As set out below at the proposed development section, the Applicant seeks to amend seven conditions of the consent granted under application reference 08/0959/FL.
5. In the consideration of an application under Section 42, the Planning Authority are only to consider the question of the conditions subject to which planning permission should be granted. In considering the planning conditions, the Act is clear that if the Planning Authority decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, planning permission should be granted. Alternatively if the Planning Authority decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, planning permission should be refused. However, these provisions are not as restrictive as the wording suggests, as highlighted within Circular 3/2013, and does not preclude consideration of the overall effect of granting a new planning permission.

6. If consent is granted it has the effect of creating a second, separate planning permission from that consented under reference 08/0959/FL. As such, should members be minded to grant consent it would be necessary to attach all conditions from the previous consent save for any amendments under the terms of this application. Likewise, if members agree that a legal agreement remains necessary a new legal agreement would be required. Despite the specific terms of the amendments sought under this application, it is also open to the Planning Authority to vary, add or remove conditions.
7. The overall effect of granting a new planning permission is not usually under consideration under this type of application however neither is it precluded. Examples where this could be relevant include where the previous permission has lapsed, is incapable of being implemented or if there have been significant changes in circumstances. There have been some significant changes, most notably with respect to the adoption of a new Development Plan from that which was used to assess application 08/0959/FL. However, under the previous assessment the East Ayrshire Local Development Plan at its Proposed Plan stage was a material consideration which was taken into account in the assessment of the development. That assessment found the development to be compliant with the Plan and although the relevant policies of the Plan changed from Proposed Plan stage to the adopted version, the key principles of the policies did not change. On this basis it is considered that the proposed variations being sought should be the key focus of the assessment.
8. **Proposed Development:** The proposed development comprises the variation of 7 separate planning conditions that are attached to planning consent 08/0959/FL. That permission was for the erection and operation of a windfarm comprising 3 turbines within East Ayrshire (out of a total of 9 turbines) and associated infrastructure including a borrow pit and access tracks. The permission was granted with 41 planning conditions (42 in total but condition 29 left blank) and subject to a section 75 legal agreement.
9. Appendix 1 contains the existing conditions in full that are proposed to be varied and the suggested wording advanced by the Applicant. In summary however the conditions that the Applicant seeks to vary are:

Condition 2: This condition relates to the implementation of the development in accordance with the approved plans. The Applicant suggests that references be added to this condition to also incorporate the section 42 application and associated documents. In practice this is allowing for changes to access track positions therefore in considering whether to approve such a change, the acceptability of the changes to the track position must be considered.

Condition 3: This condition relates to turbine details and limits the turbine tip height to 125m. The Applicant suggests substituting 145m into the condition instead of 125m.

Conditions 6 and 7: These conditions relate to aviation radar mitigation and require the submission of confirmation from Glasgow Prestwick Airport (GPA) and National Air Traffic Services (NATS) that mitigation scheme(s) have been put in place. The Applicant proposes to split out the dual requirement for the approval of NATS and GPA currently contained in each condition to refer only to one aviation body i.e. conditions 6 and 7 will be replicated exactly, creating two new conditions, and each condition will refer only to one aviation body.

Condition 16: This condition relates to the placement of peat onto surfaces only once appropriate assessment has taken place. The Applicant proposes the deletion of this condition as it duplicates condition 30.

Condition 25: This condition relates to the provision of an appropriate financial guarantee and relevant review periods. The Applicant proposes to amend the condition by taking out the yearly review period and substituting in a 5 yearly review period.

Condition 37: This condition relates to the construction period working hours. The proposal would result in some changes to the working hours to bring the East Ayrshire working hours into line with those consented by South Lanarkshire Council.

## **CONSULTATION AND RESPONSES**

10. **Ayrshire Roads Alliance** have no objections to the proposals.
11. **Historic Environment Scotland** consider that the level of impacts on the settings of scheduled monuments in the vicinity will be to some degree increased for the altered proposals but that this has been adequately assessed and they have no objection to the proposed scheme.
12. **Ministry of Defence** have no objection to the development and have reiterated their requirement for a planning condition to ensure that turbines be fitted with appropriate aviation safety lighting and that they be provided with certain information prior to the commencement of construction.
13. **Muirkirk Community Council** support the project noting that it will have little impact on the village and will bring additional funding by way of community benefit.
14. **National Air Traffic Services (NATS)** has no objection to the proposal to split the dual agreement/confirmation of both NATS and Glasgow Prestwick Airport provided the substance of those conditions remain the same in relation to the need for mitigation.
15. **Glasgow Prestwick Airport** has no objection to the proposal to split the dual agreement/confirmation of both NATS and Glasgow Prestwick Airport provided the substance of those conditions remain the same in relation to the need for mitigation.
16. **Scottish Water** has raised no objection.
17. **Scottish Environment Protection Agency (SEPA)** has raised no objection.
18. **Scottish Natural Heritage** have raised no objection to the proposal. They have provided some specific comments in relation to the SPA and SSSI, protected species, landscape and visual impact and turbine lighting. SNH have advised that in their view there is a likely significant effect on the qualifying interests of the SPA. Therefore they advise that the Council is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests. They have however advised that in their view, based on the information provided and appraisal carried out to date, the proposal will not adversely affect the integrity of the SPA.
19. SNH have welcomed the Habitat Management Plan under consented condition 23 and the pre-construction surveys for protected species under condition 22. In relation to landscape and visual matters, SNH agree that there will be limited change to the overall visibility of turbines and that the increase in consented heights is not likely to be noticeable at wider landscape scale. They do note however that at closer viewpoints the increase would be perceptible due to a larger proportion of turbines breaking the skyline. Finally, SNH advise that if visible lighting is required a lighting impact assessment should be carried out.

20. **West of Scotland Archaeology Service (WoSAS)** have no objections, noting the provision of condition 36 for an archaeological watching brief which was in line with their previous advice. The revisions to access track locations would result in different areas of disturbance from that previously approved but that the watching brief secured by condition would address this regardless.
21. No consultation responses have been received from Countryside Access Officer, Environmental Health, Transport Scotland, the Scottish Wildlife Trust, the Royal Society for the Protection of Birds, South Lanarkshire Council and Forestry Commission Scotland.

## **REPRESENTATIONS**

22. No letters of objection have been received in connection with this application. In addition to the support expressed by Muirkirk Community Council noted above, one further letter of support has been received in connection with this application. That letter was submitted by the chairman of the Muirkirk Enterprise Group (MEG) and a summary of the points raised are as follows:

*The proposals allow the Applicant to develop the windfarm in the current economic environment. MEG have considered the proposals carefully and have received no negative comments or objections from anyone in the community. MEG have come to the conclusion that the community of Muirkirk still support the proposed windfarm including the variation to the size of the turbines.*

*MEG note that Muirkirk has for many years experienced the visual impact of wind farms but due to local authority boundaries they have had limited influence or involvement in decision making processes. In this case they believe that the windfarm will have almost no visual impact on Muirkirk and that the development will bring a range of benefits to the community including employment opportunities. MEG urge the Council to approve the amended proposal as soon as possible.*

## **ASSESSMENT AGAINST DEVELOPMENT PLAN**

23. 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. For the purposes of assessing the development, the development plan comprises four separate plans. These are the Opencast Coal Subject Plan 2003, the Ayrshire Joint Structure Plan 2007, the East Ayrshire Local Plan 2010 and the East Ayrshire Local Development Plan which was adopted by the Council on 3 April 2017. The topics contained in the Structure and Local Plans are superseded by the EALDP with the exception of those policies relating to minerals. On this basis the policies relevant to wind energy development are contained solely within the EALDP which is up to date and it is these policies which are considered in detail below.

### **Adopted East Ayrshire Local Development Plan (EALDP)**

#### **Policy RE3: Wind energy proposals over 50 metres in height**

24. All wind energy proposals over 50m in height, including extensions and proposals for repowering, will be assessed using the spatial framework for wind development shown on Map 12 and all relevant Renewable Energy and other LDP policies.
25. The Council will afford significant protection to Group 2 areas shown on Map 12. Development may be appropriate in some circumstances within these areas in cases where it can be demonstrated that any significant adverse effects on the environmental characteristics of these areas can be substantially overcome by siting, design or other

mitigation and where the proposal is acceptable in terms of all applicable renewable energy criteria set out in Schedule 1.

26. Within those areas shown on the Spatial Framework (Map 12) as Group 3 – Areas with Potential for Wind Energy Development, proposals for wind energy over 50m in height will be supported where it can be demonstrated that they are acceptable in terms of all applicable Renewable Energy Assessment Criteria set out in Schedule 1.
27. *Supplementary Guidance on Planning for Wind Energy will be prepared in order to provide more information on:*
- *the spatial framework*
  - *the considerations that will apply to wind energy developments of more than 50 metres in height*

***The application site includes a section of Group 2 comprising of the SPA albeit no infrastructure would be located within the Group 2 area. This means that the development area falls within Group 3. The changes proposed through the conditions do not conflict with this element of the policy.***

28. Policy RE3 also requires that developments be acceptable in terms of the Schedule 1: Renewable Energy Assessment Criteria – this sets out a list of criteria against which applications for turbines over 50m in height will be assessed. Each criteria will be addressed below:

*Landscape and visual impacts*

29. ***The application seeks to increase the tip height of the consented turbines from 125m to 145m to tip. It was previously accepted that there would be some significant landscape and visual impacts from a windfarm at this location although these would be relatively limited and localised. This included significant landscape character effects on a part of the plateau moorland host landscape in the vicinity where the windfarm would be located. The increase in tip height is not considered to extend or intensify this effect as the turbines continue to appear as large structures but located within an expansive open landscape.***
30. ***The revised proposal results in an increase in the theoretical visibility of the windfarm however inspection of the tip and hub height zone of theoretical visibility (ZTV) plans indicates that very few new areas will experience visibility that would not have experienced this under the consented scheme. There would be an increase in the theoretical number of turbines visible from some areas but in practice this increased visibility would be limited and in the view of the Planning Authority, relatively negligible.***
31. ***In relation to visual impacts, the summit of Cairn Table was previously identified as being likely to receive a significant effect. This is the same finding as the current submission albeit the Applicant acknowledges that the increased blade tip height would result in the East Ayrshire turbine number 3 breaking the distant horizon. It is agreed that this change marginally increases the magnitude of effect but that the level of significance remains the same as assessed for the 125m to tip scheme of a moderate, but significant effect.***
32. ***From other relatively close viewpoints such as Cairn Kinney (c3.9km distant) the change in tip height is likely to be perceptible but the Applicant maintains that the effect would continue to be moderate, albeit significant. The Planning Authority agrees that this is a reasonable assessment. Similarly, those using the walking routes in the area in proximity to the windfarm, such as the core path that runs***

***through the site, would perceive the difference in turbine height but the effect would essentially be the same as viewing the turbines at the consented height i.e. large structures in close proximity but set within an undulating but broad scale landscape. Such effects would continue to be significant. In relation to more distant viewpoints, the increase in tip height would barely be perceptible and effects would continue to be not significant.***

- 33. In relation to the Sensitive Landscape Area designation, the proposed variation is considered to have a negligible additional effect to those effects found under the consented scheme and would therefore remain not significant.***
- 34. In summary, the proposed increase in tip height slightly increases theoretical visibility of the windfarm and in close views, will be visually perceptible. However, this increase in effect is considered to be relatively marginal and not resulting in any new significant effects beyond those already deemed to be acceptable. As such the proposal is considered to be acceptable in relation to landscape and visual effects.***

#### *Cumulative impacts*

- 35. In this case cumulative effects are primarily considered to concern landscape and visual impact and noise impact. Turning first to cumulative landscape and visual impacts, it is worth noting that there were considered to be no significant cumulative landscape or visual effects resulting from adding the three East Ayrshire Penbreck turbines to the range of windfarms in the area. The Application updates the cumulative picture, highlighting in particular that an application to increase the South Lanarkshire turbines to 145m has been submitted (and which is now consented) and some other schemes had changed status such as the consent given to the Lethans windfarm. It is considered that the proposal does not change cumulative effect on landscape from that of the consented scheme as the three turbines are a marginal addition to the wider baseline and were already considered to be very localised in effect and did not change the cumulative pattern of wind energy development. In relation to visual effects, the increase in tip height would improve the visual coherence of the turbines when viewed with the consented South Lanarkshire Penbreck turbines and the adjacent consented Kennoxhead turbines which are also 145m to tip.***
- 36. In relation to cumulative noise, the 125m height scheme was assessed as being not significant and that there was no requirement for a standalone or cumulative noise condition. The application updates this assessment to take account of the proposed change to a 145m to tip turbine. This assessment advises that there is no change to this position and in fact highlights that the results actually indicate a slight reduction to the overall cumulative noise impact of the Penbreck windfarm. This is considered to indicate that the position previously adopted by the Council, that cumulative noise was not significant and no noise condition was required, remains applicable to the revised scheme.***
- 37. In summary, the proposed changes do not result in any unacceptable cumulative effects.***

*Impacts on carbon rich soils, deep peat and peatland habitats; using the carbon calculator;*

- 38. The revised access track locations proposed to be secured through revised condition 2 are of most relevance under this criteria. At the outset it is noted that the extent of access track proposed has reduced from the consented track length; 1.74km down to 1.2km although much of this relates to no longer using existing forestry tracks. Peat probing data suggests that the majority of the access track is***

**on peat less than 1m deep but that a section of track c200m in length would be located on peat between 1.5m and 2.5m deep. The Applicant does highlight however that the commitment to float roads over peat in excess of 1m deep would avoid impact and would be secured through conditions on the consent. Based on the foregoing, it is considered that impacts on peat are likely to be the same or lesser than those of the consented scheme.**

*Effects on the natural heritage, including birds. Renewable energy proposals will only be approved where the Council has ascertained that they would not have an adverse effect on the integrity of a Natura 2000 site;*

- 39. The site is in proximity to the Special Protection Area which is a Natura 2000 site. The original scheme was considered to have no adverse effect on the integrity of the site nor any unacceptable natural heritage impacts generally. The revision to the turbine height is considered to be the element of change most likely to have an effect on this finding. The guidance provided by SNH is that the change itself, and the sites contribution to potential cumulative effects, is not likely to lead to an adverse effect on the integrity of the SPA but that an Appropriate Assessment is required due to the likely significant effect on the qualifying interests of the SPA. An Appropriate Assessment is included as Appendix 2 and the outcome of this assessment is that the development passes the assessment and as such there will not be an effect on the integrity of the SPA.**
- 40. The Applicant does not identify significant natural heritage effects as a result of the revised access track position, a position agreed by the Planning Authority.**

*Impacts on wild land;*

- 41. The revisions have no adverse impact on wild land.**

*Impacts on all aspects of the historic environment;*

- 42. The revision to track location could directly affect archaeological resources and the increased tip height could affect the setting of cultural heritage features. The Applicant scoped out direct effects as no known resource would be directly affected and any unknown resource would be addressed by way of the archaeological watching brief condition. This is considered to be reasonable and is endorsed by WoSAS in their consultation response. The Applicant assesses indirect effect i.e. changes in setting, finding that the change in tip height would make no material difference to the effect of the previously consented development on various cultural heritage assets such as scheduled monuments. The level of effect of the 125m to tip scheme was not significant and the proposed changes are likely to result in a slight increase in impact but it is agreed that these remain not significant and acceptable. This is also the position set out in the consultation response of Historic Environment Scotland.**

*Effects on hydrology, the water environment, flood risk and groundwater dependent terrestrial ecosystems;*

- 43. The revised access track is said by the Applicant to fall within the same water catchment as the consented track, to require no water crossings and is sited to avoid the headwaters of the Laird's Burn. They acknowledge that the track goes between and is in proximity to the Lairds Burn and Penbreck Burn (50m and 40m respectively). They consider that, subject to the same pollution prevention measures secured by condition under the 08/0959/FL consent, there would be no change to surface hydrology or site drainage from that previously assessed as not**



**significant. They advise that there is very limited flood risk and less so with the lack of water crossings. The Planning Authority considers this to be reasonable.**

- 44. The Applicant does however note that an area classed as Ground Water Dependent Terrestrial Ecosystem (GWDTE) is crossed by the revised track. The Applicant queries whether this is truly a GWDTE area, highlighting the contribution of surface water as opposed to ground water. As a precautionary approach they propose to install a cross drain into the road design to maintain movement of water and further mitigate potential impact on GWDTE. Noting that SEPA have raised no objection to the application, that the GWDTE is potentially surface water fed and that mitigation is proposed regardless, the Planning Authority consider this to be reasonable and avoids any unacceptable impact.**

*Re-use of excavated peat, forest removal and forest waste;*

- 45. The proposed changes have no significant impact on these matters provided that planning conditions attached to the 08/0959/FL consent are applied to any new consent. This includes in particular the Construction and Environmental Management Plan which addresses both peat management and the handling of waste. Forestry removal and compensation are addressed below.**

*Impacts on forestry and woodlands, with reference to the Ayrshire and Arran Forestry and Woodland Strategy (2013);*

- 46. The windfarm is located within a commercial forest and as such some felling is required to facilitate the development. The Environmental Statement submitted with the consented scheme referred to offsetting this loss through a long term forestry management plan however no detail of the extent or location of the woodland compensation was provided nor was this matter secured by planning condition. The revised scheme is likely to result in a slight increase in forestry loss given larger blade diameter and the continued commitment to a 50m standoff around the turbine. Whilst forestry loss is acceptable provided compensatory planting is provided, this requires to be secured and delivered. As such whilst the existing consent should have included a condition to secure these matters but did not, the revisions sought increase the justification for the attachment of a planning condition to ensure that adequate forestry compensation is provided.**

*Effect on greenhouse gas emissions;*

- 47. The Applicant advises that taller turbines generally increase energy production. The candidate turbine has an installed capacity of 3.4MW compared to the consented scheme at 3MW. Although this will need balanced against any carbon losses from the development it is considered to be highly likely that the changes sought will have a positive effect on greenhouse gas emissions.**

*Impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;*

- 48. The site is located in a relatively isolated rural area some 2.9km from the nearest dwelling. There are no significant visual impacts on communities or individual dwellings as a result of the proposed variations beyond those that were considered acceptable under consent 08/0959/FL. The environmental information confirms that noise impact falls well below the simplified ETSU-R-97 guidance noise limit.**

*Impacts on tourism and recreation;*

49. **Subject to the imposition of condition 40 of consent 08/0959/FL maintaining public access to the core path the variations do not adversely impact on tourism or recreational resources.**

*Public access, including impact on long distance walking and cycling routes and scenic routes identified in National Planning Framework 3;*

50. **Subject to the imposition of condition 40 of consent 08/0959/FL maintaining public access to the core path, the variations do not adversely impact on public access.**

*Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;*

51. **The changes proposed by the variations are unlikely to have any additional positive effect beyond those already established by planning consent 08/0959/FL.**

*Impacts on aviation and defence interests and seismological recording;*

52. **The variations to increase tip height and to split out the Glasgow Prestwick Airport and NATS confirmation is relevant to this matter. However, the aviation consultees have raised no objection to either of these variations to the conditions and as such the proposals are acceptable.**

*Impacts on road traffic including during construction and decommissioning;*

53. **The variations are considered to have little or no effect on such matters beyond what was assessed and found to be acceptable under consent 08/0959/FL. Ayrshire Roads Alliance have raised no objection to the application. Access continues to be taken through South Lanarkshire with the Applicant pursuing a potential revised access track through South Lanarkshire although that is of no specific consequence to this application.**

*Impacts on adjacent trunk roads;*

54. **Although Transport Scotland have not responded to the consultation request, the variations are considered to have little or no effect on trunk roads beyond what was assessed and found to be acceptable under consent 08/0959/FL.**

*Impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;*

55. **No such links are known to cross the site therefore the proposed variations have no impact on such matters.**

*The appropriate siting and design of turbines and ancillary works;*

56. **The turbine locations are not changing therefore the siting of them is considered to be acceptable. The increase in tip height has no unacceptable landscape or visual impacts as noted above. The Environmental Report advises that the revised access track locations are sought in order to optimise horizontal and vertical alignment between turbines, avoid any gradient issues and take account of environmental constraints following a detailed design analysis. As noted above, these changes have generally had a neutral or better effect on peat, hydrology, ecology and ornithology in comparison to the consented scheme. Based on this it is considered that the siting and design of the ancillary works is acceptable.**

*The need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration;*

57. ***The proposal does not seek to vary such conditions therefore provided such conditions are attached to any grant of consent the proposal is deemed to comply with this strand of policy.***

*The need for a robust planning obligation to ensure that operators achieve site restoration;*

58. ***As highlighted at the background section of this report, approval of a section 42 application has the effect of creating a new planning consent. The 08/0959/FL consent has an obligation relating to the financial guarantee and it would be necessary to replicate that under this application. Provided that such an obligation is put in place the application would comply with this policy strand.***

*The scale of contribution to renewable energy generation targets;*

59. ***The variation sought would allow for a greater capacity turbine to be installed resulting in an increase in contribution towards renewable energy targets. Although the three turbines present a very modest contribution in relation to such national targets, it is welcome nonetheless.***

*Opportunities for energy storage.*

60. ***The variation does not present any such opportunities and nor does the consented development.***

61. **Policy RE5: Financial Guarantees**

62. Where necessary in terms of the scale and complexity of the proposal, and the consequences of any failure to restore the site, the Council will require an appropriate financial guarantee in respect of wind energy, waste management, landfill and electrical infrastructure proposals, to ensure that all decommissioning, restoration, aftercare and mitigation requirements attached to planning consents can be met in full.

63. Any planning permission granted for such developments will be appropriately conditioned and/or subject to a Section 75 obligation to ensure that an appropriate financial guarantee is put in place to the satisfaction of the Council. No development will be permitted on site until any legal obligation and planning conditions have been discharged by the Council.

64. The financial guarantee mechanism and the amount covered will be reviewed at regular intervals by an independent party. The developer will be required to demonstrate to the satisfaction of the Council that the guarantees continue to be of a sufficient level to cover all potential restoration, aftercare, decommissioning and mitigation costs.

65. Such a financial guarantee, secured via a Section 75 legal agreement and planning conditions, would be put in place prior to any consent being granted to ensure sufficient funds will be provided to safeguard the costs associated with decommissioning, restoration and aftercare of the site.

66. Supplementary Guidance on Financial Guarantees supports policy RE5 by providing further detail on:

- Why financial guarantees are required;
- Different types of financial guarantees that are available on the market;
- The approach to securing financial guarantees in terms of the process the Council will undertake;

- How financial guarantees will be monitored and reviewed.

***The application proposes a minor change to condition 25 which would alter the frequency of the review period of the financial guarantee from yearly reviews (unless otherwise agreed by the Planning Authority) to 5 yearly reviews (also unless otherwise agreed in writing by the planning authority). The Supplementary Guidance is silent on what constitutes an acceptable frequency of review period. Five yearly review periods have been found to be acceptable and operate on windfarms in East Ayrshire including Hare Hill Extension and Afton and such a period was included in the conditions for the recently presented and approved (subject to legal agreement) Over Hill windfarm. Provided that the guarantee quantum takes proper account of the 5 yearly review period through adding inflationary uplift it is considered that the proposed variation brings this development into consistency with other East Ayrshire windfarms and would be compliant with policy RE5. Should yearly periods be retained it is also considered that this presents an unnecessarily frequent, and therefore onerous, burden on the Applicant and the Council.***

### **Overarching Policy OP1**

67. All development proposals will require to meet the following criteria in so far as they are relevant, or otherwise demonstrate how their contribution to sustainable development in the context of the subsequent relevant policies in the local development plan and Scottish Planning Policy would outweigh any lack of consistency with the relevant criteria:

68. (i) Comply with the provisions and principles of the LDP vision and spatial strategy, all relevant LDP policies and associated supplementary guidance and non-statutory guidance;

***The proposed variation has been assessed against the two principle policies of relevance, RE3 and RE5, above. This assessment shows that the variations sought are relatively minor and whilst some adverse effects would be marginally increased in relation to landscape and visual impact and forestry, the remaining matters are very similar to the consented development or indeed offer marginal benefits. Taking this together it is clear that the proposal is in compliance with the relevant LDP policies and associated supplementary guidance.***

69. (ii) Be fully compatible with surrounding established uses and have no unacceptable impacts on the environmental quality of the area;

***The assessment under RE3 demonstrates that the proposal presents no unacceptable impact on the environmental quality of the area. The site is located in a very sparsely settled rural area within a broad landscape capable of accommodating the increased height turbines and as such it is considered that the proposal is compatible with surrounding uses.***

70. (iii) Ensure that the size, scale, layout and design enhances the character and amenity of the area and creates a sense of place;

***It is considered that the relevance of this criterion to wind energy development is slightly tenuous as large scale wind energy development is likely to have a number of significant adverse impacts on the character and amenity of the area particularly by way of landscape and visual impact. As such it is unlikely that any such proposal could ever achieve an enhancement to the character or amenity of the area. In so far as this criterion is relevant to windfarms the development would be contrary to it.***

71. (iv) Where possible, reuse vacant previously developed land in preference to greenfield land;

***This is not applicable to wind energy developments as a preference for brownfield over greenfield sites does not form part of the wind energy spatial framework.***

72. (v) Be of the highest quality design by meeting with the provisions of SPP, the Scottish Government's policy statement Designing Streets, the Council's Design Guidance and any master plan/design brief prepared for the site;

***This criteria is not applicable to wind energy development.***

73. (vi) Prepare Master Plans/Design Statements in line with Planning Advice Notes 83 and 68 respectively where requested by the Council and/or where this is set out as a requirement in Volume 2 of the LDP;

***This criteria is not applicable to wind energy development.***

74. (vii) Be compatible with, and where possible implement, projects shown on the LDP placemaking maps;

***This criteria is not applicable to wind energy development.***

75. (viii) Ensure that there is no unacceptable loss of safeguarded areas of open space/green infrastructure and prime quality agricultural land;

***There is no such loss associated with this development.***

76. (ix) Protect and enhance natural and built heritage designations and link to and integrate with green infrastructure where possible;

***As highlighted under policy RE3 above and through the Appropriate Assessment at Appendix 2 below, the proposal will not adversely affect the integrity of the SPA. There are no unacceptable impacts on natural or built heritage designations as a result of the proposed variations.***

77. (x) Ensure that there are no unacceptable impacts on the landscape character or tourism offer of the area;

***As noted above, there are no unacceptable impacts on landscape character or the tourism offer of the area.***

78. (xi) Meet with the requirements of all relevant service providers and the Ayrshire Roads Alliance, and

***The Ayrshire Roads Alliance has raised no objection.***

79. (xii) Be accessible to all.

***Given the nature of the development, equitable access throughout the site is unlikely to be achieved. The purpose of wind farm developments is energy generation and whilst site tracks can often be utilised by the public this is not their primary function, reflected in the standard of construction and materials used. As such it is considered that this criterion is not strictly applicable to wind farm developments.***

***In summary, the proposed variations meet the above criteria where they are relevant to the nature of the development proposed. As such the proposal is compliant with Policy OP1 and there is no need to further assess whether its contribution to sustainable development would outweigh lack of consistency with relevant criteria.***

80. The following policies are also relevant to the development to varying degrees however detailed consideration of the subject matter to which these policies relate has been given under Policy RE3 and Schedule 1 above. This detailed consideration has indicated that the development has no unacceptable adverse impacts on any of the subjects to which these policies relate (subject in some cases to appropriate planning conditions or legal obligations). Having considered the detailed wording of each of the policies the proposal can be described as being in compliance with:

**Policy ENV1: Listed Buildings;**

**Policy ENV2: Scheduled Monuments and Archaeological Resources;**

**Policy ENV6: Nature Conservation;**

**Policy ENV7: Wild Land and Sensitive Landscape Areas;**

**Policy ENV8: Protecting and Enhancing the Landscape;**

**Policy ENV9: Trees, Woodland and Forestry**

**Policy ENV10: Carbon rich soils**

**Policy ENV12: Water, air and light and noise pollution;**

**Policy T1: Transportation requirements for new development, and**

**Policy T4: Development and Protection of Core Paths and Natural Routes.**

#### **ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

81. The following are considered to be the most relevant material considerations in the determination of this application:

##### **National and Scottish Government Energy Policy**

82. National and Scottish Government Energy Policy is supportive of renewable energy, including onshore wind, provided that they are located in landscapes where it can be accommodated. The Scottish Energy Strategy and the Onshore Wind Policy Statement have both been published since consent was granted. Both of these documents offer continued support for renewable energy including onshore wind and have set more challenging targets to be met. However these targets are not to be met at any cost and a balance requires to be struck with environmental protection, impact on landscapes and natural heritage.

83. The variation sought has the effect of increasing the output of the turbines from that of the consented scheme. As noted above under assessment at policy RE3, there are no identified unacceptable effects resulting from the variations. Based on this, the variations allow for an increase (albeit slight) in contribution towards renewable energy provision and targets with no unacceptable impact and therefore draw support from energy policy.

##### **Scottish Planning Policy (SPP)**

84. Table 1 and Paragraph 169 of Scottish Planning Policy provides a spatial framework for wind energy and a range of detailed matters that require to be taken into consideration when assessing a wind energy development. This approach is reflected in Policy RE3 and as demonstrated under that policy, the proposal results in no unacceptable impacts. Based on this, the proposed variations are considered to be compliant with SPP.
85. SPP also introduces a presumption in favour of development that contributes to sustainable development noting that up to date development plans retain primacy in decision making but the presumption is a material consideration in the consideration of applications. The thirteen criteria set out at paragraph 29 of SPP enable the assessment of a proposal to determine if it is indeed a sustainable development and therefore capable of positive consideration.
86. The variations sought are relatively limited and assessment against high level indicators is somewhat difficult. However, if the totality of the development i.e. the whole windfarm incorporating the proposed variations is assessed, it is considered that the development scores well against these indicators including in particular supporting climate change mitigation, net economic benefit and having no unacceptable impact on landscape or the wider environment. On this basis the variations sought as part of the wider windfarm development would contribute to sustainable development and as such positive weighting can be given to the presumption.

### **Planning History**

87. The key planning history of the site is the consent that this application seeks to vary. Planning consent 08/0959/FL is for the erection and operation of a windfarm comprising three 3MW turbines up to 125m to tip and associated infrastructure including access tracks and a borrow pit. The application was approved subject to planning conditions and a section 75 legal agreement and consent was issued in June 2018. Consent 08/0959/FL set an acceptable baseline of development and as noted above it is the effect of the proposed condition variations that require to be assessed to determine if the application is acceptable. The decision taken on this application will have no effect on consent 08/0959/FL.
88. The corresponding section of the windfarm within South Lanarkshire comprising six turbines and associated infrastructure was approved with conditions in January 2018. That consent has since been varied through a non-material variation to allow for revised access track locations that would correspond to those sought under the current proposed development.
89. A section 42 application was submitted to South Lanarkshire Council for variations to conditions, some of which are similar to those sought under this application and in particular including an increase in turbine height to 145m. That application remains under consideration but it is understood that that Council is minded to grant consent subject to the conclusion of a legal agreement.

### **East Ayrshire Landscape Wind Capacity Study 2018 (EALWCS)**

90. The 2018 EALWCS is an update to the 2013 Study against which consent 08/0959/FL was assessed. The 2018 Study introduces a new 'very large typology' category of turbine within which the revised turbine height would sit. In practice the guidance within the Study has not substantially changed in relation to this site. For example, the Study encourages such turbines to be located within the core of the Plateau Moorland, away from more sensitive landscapes on the edge of the plateau moorland. The site continues to meet this key criteria as explained above under Policy RE3. The EALWCS also seeks to avoid significant impact on views towards landmark hills from the East Ayrshire Lowlands as well

as seeking to avoid siting turbines near or on landmark hills to ensure that the scale of the turbines do not detract from the landmark hills. The turbines do not adversely affect views of landmark hills from the lowlands. Although sited in proximity to the landmark hill of Cairn Table, the turbines are not so close as to detract from, or compete with, the setting and appearance of Cairn Table. On this basis the proposed variations are considered to comply with the guidance given in the EALWCS.

### **Circular 4/1998: Planning Conditions**

91. The application has not been specifically sought on the basis that any of the existing conditions did not meet the six tests for planning conditions set out within the Circular. Those six tests are that conditions can only be imposed where they are; necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Largely, the changes are to address the revised development, to bring consistency with the South Lanarkshire conditions or to ease the process of discharging conditions.
92. The clear exception to this is condition 16 which duplicates condition 30 and as such would fail the tests of necessity and reasonableness. The proposed changes suggested by the Applicant are considered to meet with the tests set out by the Circular whilst achieving the revisions to the development sought.

### **Consultation Responses**

93. No consultation response has indicated that the variations sought are unacceptable. All consultees have raised no objections and support is indicated by Muirkirk Community Council. The aviation consultees have raised no objection to the separation sought through the application.

### **Representations**

94. The single letter of support from a third party notes what is deemed to be an acceptable visual impact on Muirkirk and the benefits that the development could bring. Having undertaken an assessment of the visual impact of the variation sought under policy RE3 above, this is considered to be a reasonable assessment.

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

95. The reports mentioned above 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 windfarms (also including single wind turbines).

### **Heads of Planning Scotland Energy and Resources sub-committee: Position statement on the operation of financial mechanisms to secure decommissioning, restoration and aftercare of development sites**

96. This document is produced by a working group and contributors drawn from Scottish Council's, Scottish Government and SEPA. The document incorporates some similar advice to the Council reports mentioned above but also goes further, seeking to identify the best financial tools, develop a standard section 75 template, establish a template for the assessment of costs, establish good practice for the review of financial guarantees and establish standards for compliance and monitoring. Of particular note is the position that a section 75 agreement is the most appropriate method of securing a financial guarantee although conditions can also be used. The position statement reiterates the



benefits of involving planning, legal and finance in agreeing the guarantee value, the importance of agreeing the correct guarantee quantum and of reviewing the value throughout the lifespan of the development. The Council approach generally reflects this position statement in that an independent assessor provides a quantum figure, planning, legal and finance are involved in discussions on the quantum and guarantee mechanism and that a legal agreement to secure this (and well as a planning condition) is requested.

### **Applicant's Decommissioning Costs**

97. The Applicant undertook an assessment which was based on the Ironside Farrar figures agreed under consent 08/0959/FL and sought to update those figures based on the specific revisions sought. This resulted in a figure of £420,124.97 and the Applicant agreed that an inflationary uplift of 3% per annum over 5 years would be added to that figure.

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

98. In compliance with Paragraph 24 of the Cabinet Report on Decommissioning, Restoration, Aftercare and Mitigation Financial Guarantees dated 21st May 2014 and in terms of financial security for decommissioning and restoration of the site, the Planning Authority's Independent Assessor (Ironside Farrar) has carried out an assessment of the value of the decommissioning and restoration guarantee for the proposed variation to the Penbreck wind farm. The assessment by Ironside Farrar has concluded that the costs for the decommissioning, restoration and aftercare of the site put forward by the Applicant would be sufficient. Ironside Farrar do not agree with the costings of certain elements that allow that figure to be reached with some elements considered to be undervalued but that overall these are offset by the overvaluation of other elements.

## **FINANCIAL AND LEGAL IMPLICATIONS**

### **Legal Implications**

99. In relation to the above paragraphs, if the Planning Committee is minded to approve planning consent, financial matters require to be addressed by Planning Obligations under Section 75 of the 1997 Act. As noted at the background section, the effect of a Section 42 application is to create a new, standalone planning consent. As such the matters secured through section 75 on the original consent require to be replicated for this application.
100. Having considered the three previous heads of terms, it is considered that the PMO and restoration guarantee heads of terms meet with the tests of Circular 3/2012: Planning Obligations and Good Neighbour Agreements. However, the obligation to ensure contribution to the Renewable Energy Fund (REF) does not meet the test of necessity as there is no longer a policy requirement to pay towards the REF in the LDP 2017 unlike the previous Local Plan. As the Council and the Applicant have agreed in principle that a Section 75 on this matter would be acceptable and other matters are also to be included in a section 75, it is considered reasonable to also include the REF contribution.
101. The Heads of Agreement for the Planning Obligation (Section 75 of the 1997 Act) to be concluded prior to consent shall therefore include:
- An Independent Planning Monitoring Officer shall be appointed by the Planning Authority, with the cost of providing this service being met by the developer. The Independent Planning Monitoring Officer will also be consulted in relation to the discharge of respective conditions attached to any planning consent issued;
  - No section of development shall be commenced until a decommissioning, restoration and aftercare guarantee is provided by the developer and agreed with the Planning

Authority that will secure the decommissioning of the turbines and the restoration and aftercare of the site; and

- Appropriate developer contributions towards the Renewable Energy Fund;

### Financial Implications

- 102.** In accordance with the Council's revised arrangements for the consideration of Financial Guarantees relative to certain types of development prior to sign off, in this case by the Depute Chief Executive, the Planning, Finance and Legal Services, these services have all been involved in the process of assessing the Applicant's proposed arrangements for securing the decommissioning and restoration. These sections have been consulted with responses received confirming the proposed arrangements are acceptable to the Council.
- 103.** With regard to the Council's Cabinet Report on Decommissioning, Restoration, Aftercare and Mitigation of Financial Guarantees dated 21st May 2014, any wind farm or wind turbine proposal will require to comply with the terms of this report in relation to the submission, agreement, implementation and monitoring of financial guarantees.
- 104.** The Applicant has confirmed via the draft section 75 that the preferred payment mechanism would be via an insurance bond as the basis for the financial guarantee for the decommissioning and restoration of the proposed wind farm. Appendix 1 of The Cabinet report of 21st May 2014 states that the risk level for such a guarantee is "Medium Risk" and the proposed payment method is therefore in accordance with the agreed Cabinet Report and has been agreed by the Council's Chief Governance Officer, Head of Finance and ICT and the Depute Chief Executive.
- 105.** Should the Planning Committee decide to refuse the application, against the recommendation of the Head of Planning and Economic Development, then it could result in an appeal by the Applicant to the Scottish Government Planning and Environmental Appeals Division (DPEA). The Council would require to participate in whatever procedure is considered appropriate by the DPEA in order to put forward its case. This could be via further written representation, hearing or inquiry sessions or a combination of these methods.
- 106.** In recent appeals of a similar nature further procedure has been via further written representation. This therefore 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 behalf of the Council as necessary.
- 107.** Furthermore, if the Council is considered to have acted unreasonably in refusing the application or in its handling of the appeal, a claim for an award of expenses could be made by the Applicant.

### **COMMUNITY PLAN**

- 108.** Section 2: Vision and Spatial Strategy of the East Ayrshire Local Development Plan 2017, referred to above, states that it takes account of and embeds the main themes and vision of the Community Plan.

### **CONCLUSIONS**

- 109.** Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
- 110.** The most significant policy within the EALDP with regards to onshore wind farms is Policy RE3. The application site falls partly within Group 2 and Group 3 areas on account of the part of the application site boundary falling within the Special Protection Area. However, as the area proposed for development is outwith the SPA, the area of site to be developed is Group 3 where wind farms will be supported subject to detailed assessment against the Schedule 1 criteria.
- 111.** The key assessment policy is RE3 which, through Schedule 1, lists a range of criteria that require to be addressed to ensure that there are no unacceptable impacts. The key variations that require to be assessed are the change in height of the turbines from 125m to tip to 145m to tip and the revised access track locations. The increase in tip height has some additional visual impacts beyond that which were already deemed acceptable under consent 08/0959/FL however these are considered to be very limited, likely to be only noticed in close proximity to the turbines and result in no new additional significant effects. Landscape impacts resulting from the variation is considered to be negligible and very similar to that of the consented scheme. The increased tip height has the potential to impact on the Special Protection Area and SSSI however SNH consider that the integrity of the designation will not be affected, a view reflected in the Appropriate Assessment at Appendix 2. The revised access track results in less track length than previously consented although total new track requirement (as opposed to using existing forestry track) remains approximately the same. With the continued commitment to mitigation such as floating track on deeper peat, the revisions have no significant effects on peat, the water environment or other relevant factors. As set out in detail above, the proposal is considered to be compliant with Policy RE3.
- 112.** Additionally, the revision to the financial guarantee condition does not conflict with Policy RE5 or supplementary planning guidance. The five yearly period sought brings this development into line with already agreed practice at other East Ayrshire windfarms. In finding compliance with policies RE3 and RE5 and considering the detail of the other relevant policies of the LDP, it is considered that the development is also in compliance with a range of other LDP policies including policy OP1, the overarching LDP policy.
- 113.** No material consideration assessed above indicates that the application should be refused contrary to the development plan. The planning history is particularly noteworthy, setting the scene for what was already considered to be an acceptable level of development and impact. SPP largely reflects the favourable Development Plan position and the presumption in favour of development that contributes to sustainable development is also supportive of the proposals. The slight increase in generation capacity is supported in energy policy particularly as no unacceptable impacts have been identified. No consultee has raised any objection to the proposals and the revisions are considered to meet the terms of Circular 4/1998.
- 114.** As the proposed variations comply with the Development Plan and the material considerations do not indicate that the application should be refused, the application should be approved. Such approval should be subject to the planning conditions imposed on consent 08/0959/FL but specific conditions varied as sought in this application. In addition a forestry compensation condition should be added as, in error, it was not included in the previous consent, some minor changes made to conditions to address spelling errors and current best practice etc. and a renumbering of the conditions should take place to account for the various changes. Finally, consent should be withheld until a section 75 legal agreement is concluded.

## RECOMMENDATION

115. It is recommended that the Planning Application be approved with conditions and the decision notice be withheld until the successful conclusion of a legal agreement.

## CONTRARY DECISION NOTE

116. Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development the application will not require to be referred to Council.

**Michael Keane**  
**Head of Planning and Economic Development**

**FV/MK**

**Date 14/03/2019**

***Implementation Officer: David McDowall, Operations Manager:- Building Standards and Development Management***

## LIST OF BACKGROUND PAPERS

- Application documentation including Environmental Impact Assessment report and 08/0959/FL environmental information;
- East Ayrshire Local Development Plan (April 2017);
- East Ayrshire Local Development Plan Supplementary Guidance: Planning for Wind Energy;
- East Ayrshire Local Development Plan Supplementary Guidance: Financial Guarantees;
- East Ayrshire Local Development Plan Background Paper: Sensitive Landscape Areas (March 2015);
- East Ayrshire Local Development Plan Non-Statutory Planning Guidance: East Ayrshire Landscape Wind Capacity Study (2018);
- Scottish Planning Policy;
- Planning consent 08/0959/FL including relevant environmental and supporting information;
- South Lanarkshire Council consent, NMV and section 42 application;
- Circular 4/1998: Planning Conditions;
- Circular 3/2012: Planning Obligations and Good Neighbour Agreements;
- Circular 3/2013: Development Management Procedures;
- IFL Restoration Bond Assessment;
- Scottish Energy Strategy: The future of energy in Scotland (December 2017);
- Onshore Wind Policy Statement (December 2017);
- Consultation responses;
- Letter of support;
- Reports to Council dated 24th May 2013, 19th September 2013 and 28th January 2014 and the Report to Cabinet on 21st May 2014;
- Applicants financial guarantee calculations; and
- Heads of Planning Scotland Energy and Resources sub-committee: Position statement on the operation of financial mechanisms to secure decommissioning, restoration and aftercare of development sites

Anyone wishing to inspect the above background papers should contact David Wilson on 01563 576779.



(c) No name, sign, logo or other advertisement shall be displayed on any external surface of the wind turbines, save those required by law, unless otherwise approved in writing by the Planning Authority.

**Reason:** In the interests of visual amenity.

4. All turbine blades shall rotate in the same direction.

**Reason:** In the interest of visual amenity.

5. The development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discoloration, until such time as the wind farm is decommissioned.

**Reason:** In the interest of visual amenity.

6. No development shall commence unless and until such time as the Planning Authority receives confirmation from the Airport Operator that:

(a) a Radar Mitigation Scheme has been identified; and

(b) the Radar Mitigation Scheme can be implemented and maintained for the lifetime of the development.

**Reason:** in the interests of aviation safety.

7. No blade shall be fitted to any turbine or turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as the Planning Authority received confirmation from the Airport Operator that:

(a) All measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented; and

(b) The Civil Aviation Authority has evidenced its approval to the Airport Operator that the Radar Mitigation Scheme is acceptable mitigation for the development and has been satisfactorily implemented by the Airport Operator.

**Reason:** In the interests of aviation safety.

8. No development shall commence unless and until such time as the Planning Authority receives confirmation from NATS that:

(a) a Radar Mitigation Scheme has been identified; and

(b) the Radar Mitigation Scheme can be implemented and maintained for the lifetime of the development.

**Reason:** in the interests of aviation safety.

9. No blade shall be fitted to any turbine or turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as the Planning Authority received confirmation from NATS that:

(a) All measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented; and

- (b) The Civil Aviation Authority has evidenced its approval to the Airport Operator that the Radar Mitigation Scheme is acceptable mitigation for the development and has been satisfactorily implemented by the Airport Operator.

**Reason:** In the interests of aviation safety.

10. No turbine shall operate other than in accordance with the terms of the Radar Mitigation Scheme.

**Reason:** in the interests of aviation safety.

For the purposes of conditions 6 to 10:

"*Airport Operator*" means Glasgow Prestwick Airport Limited or any successor as holder of a licence under the Air Navigation Order 2000 from the Civil Aviation Authority to operate Glasgow Prestwick Airport.

"*NATS*" means National Air Traffic Services.

"*Radar Mitigation Scheme*" means such equipment, procedural or technological measures, as the Airport Operator identifies as necessary and sufficient to prevent the operation of the development or of any turbines forming part of the development impacting adversely on radar performance or on the performance of other navigational aids at Glasgow Prestwick Airport or on maintaining safe and efficient air traffic control services or procedures or airspace and which the Airport Operator is willing and able to implement and maintain for the lifetime of the development or for such shorter period as may be agreed in consultation with the Airport Operator as necessary to mitigate any such adverse impact.

"*Testing Protocol*" means the protocol to control the operation of any turbine or turbines forming part of the development for the purposes of testing of the Radar Mitigation Scheme.

11. No development shall take place until a decommissioning, site restoration and aftercare scheme (the Decommissioning Scheme) for the wind farm has been submitted to and approved in writing by the Planning Authority. The Decommissioning Scheme shall include details of:

- (a) Works for the decommissioning and removal of all turbines (together with their foundations to a depth of 1 metre) and all above ground ancillary buildings and equipment;
- (b) The treatment of ground surfaces and the restoration of the site to its former condition, or other such condition as is agreed by the Planning Authority;
- (c) Environmental management provisions;
- (d) A traffic management plan;
- (e) A decommissioning timetable; and
- (f) Appropriate aftercare following site restoration.
- (g) The Decommissioning Scheme shall be submitted to the Planning Authority no later than three months prior to the commencement of development.

**Reason:** To ensure the decommissioning of the wind farm and the reinstatement of the site in an environmentally acceptable manner.

12. No later than 24 months before the expiry of this permission an updated Decommissioning Scheme that takes account of the Scheme approved under condition 11 and incorporating the current best environmental practice shall be submitted to the Planning Authority for its written approval.

**Reason:** To ensure the decommissioning of the wind farm and the reinstatement of the site in an environmentally acceptable manner.

13. The Decommissioning Scheme approved under condition 12 shall be implemented (with the exception of aftercare works) within such period as may be provided in the Scheme, which period shall not exceed 12 months after the expiry of this permission.

**Reason:** To ensure the decommissioning of the wind farm and the reinstatement of the site in an environmentally acceptable manner.

14. (a) If any turbine installed and commissioned fails to supply electricity to the electricity grid network for a continuous period of six months, the developer shall notify this to the Planning Authority within seven days following that continuous period.

- (b) Unless the turbine is in the process of being repaired or replaced and evidenced to be so by the Developer, or unless otherwise agreed in writing by the Planning Authority, the turbine shall be deemed to have ceased to be required and:

(i) The turbine (including its foundations to a depth of 1 metre and any ancillary surface equipment solely related to that turbine) shall be dismantled and removed from the site; and

(ii) The land shall be restored to such condition as is agreed by the Planning Authority.

- (c) all in accordance with a scheme to be submitted by the developer within one month of the date of notification under part (a), for the written approval of the Planning Authority; and

- (d) The scheme approved under part (b) shall be implemented within three months of notification of its approval by the Planning Authority.

**Reason:** To ensure that any non-operational turbine is removed from site in the interests of safety, amenity and environmental protection.

15. On an annual basis following the first export date of electricity from the site, the developer shall provide the Planning Authority with a report detailing the operations of each turbine on the site. Said report shall be submitted within 14 days of the due date of the annual report and shall include details of the turbine operation including, but not exclusively: dates operational, total number of days non-operational, consecutive number of days non-operational and reasons for nonoperation of the turbines.

**Reason:** To allow the Planning Authority to assess if the turbine has been operational in the preceding twelve months.

16. (a) Prior to Commencement of Development, the Operator shall submit a water risk assessment (the Water Risk Assessment) of the effects of the development on the quantity and quality of water supplied to all properties with a private water supply that may be affected by the development for the written approval of the Planning Authority in consultation with SEPA. The Water Risk Assessment shall include, but not exclusively,



details of any necessary mitigation measures and monitoring arrangements prior to commencement of development, during construction and upon completion of construction.

- (b) Thereafter any mitigation measures identified in the Water Risk Assessment approved under Part (a) shall be implemented and maintained by the Operator.

**Reason:** To ensure the protection of the quantity and quality of Private Water Supplies.

17. The Company shall undertake on-going monitoring of ground conditions during the construction phase of the wind farm. Monitoring results shall be fed into risk analysis reports to be submitted to the Planning Authority on a quarterly basis. If a risk of peat failure is identified, the Company shall install such geotechnical instrumentation to monitor ground conditions as recommended by an appropriately qualified geotechnical engineer and shall monitor ground conditions. Any necessary remediation work shall be implemented by the Company following consultation with the Planning Authority and the Environmental Clerk of Works to the satisfaction of the approved geotechnical engineer.

**Reason:** To mitigate peat landslide risk and minimise environmental impacts arising from peat slide risk.

18. (a) At least three months prior to the Commencement of Development the Developer shall submit a Traffic Management Plan (TMP) for the written approval of the Planning Authority in consultation with Transport Scotland and the Ayrshire Roads Alliance. The Traffic Management Plan shall include, but not limited to, the following:

- (i) The proposed route for abnormal load deliveries;
- (ii) The source of construction material should this include the use of non-trunk roads;
- (iii) Removal/replacement of street furniture, junction widening and traffic management measures during abnormal load deliveries;
- (iv) Any additional signing or temporary traffic control measures deemed necessary due to the size or length of the loads being delivered and must be undertaken by a recognized Quality Assured traffic management consultant, with confirmation that Transport Scotland and/or its Operating Company has approved such measures.
- (v) Road maintenance and cleaning/wheel wash facilities.

For the avoidance of doubt, no construction work shall take place until the Traffic Management Plan has been approved in writing by the Planning Authority.

- (b) The Traffic management Plan approved under part (a) shall be implemented by the Developer and adhered to during all construction works unless otherwise agreed in writing by the Planning Authority.

**Reason:** In the interests of road safety and to enable safe and suitable access for vehicles to and from the site.

19. (a) No development shall commence unless and until a Pollution Prevention and Incident Plan has been submitted and approved in writing by the Planning Authority. For the avoidance of doubt the Pollution Prevention and Incident Plan should incorporate:

- (i) Pollution Prevention Plan;
- (ii) Pollution Incident Plan; and

(iii) Pollution control monitoring Plan.

(b) The Pollution Prevention Incident Plan approved under Part (a) shall be implemented in full unless otherwise agreed in writing by the Planning Authority

**Reason:** To ensure the development is undertaken in a manner which minimises pollution risk and to ensure appropriate management and mitigation measures are put in place.

20. (a) There shall be no Commencement of Development unless a suitably qualified environmental consultant to assist the Planning Authority has been appointed by the Planning Authority to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent ("PMO"), with the costs of such appointment being met in full by the Developer.

(b) Prior to the Commencement of Development a planning monitoring scheme shall be submitted to and approved in writing by the Planning Authority. The planning monitoring scheme to follow the appointment of the PMO shall;

(i) Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;

(ii) Assess information submitted in relation to the discharge of the suspensive planning conditions;

(iii) Require the PMO to submit a monthly photo report to the Planning Authority summarising works undertaken on site.

(iv) Require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.

(c) The PMO shall be appointed on the approved terms throughout the period from:

(i) pre-construction phase when the suspensive conditions are being satisfied,

(ii) during the construction phase of the Development and the restoration period following construction.

(d) Unless otherwise agreed with the Planning Authority, no later than 3 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), a suitably qualified environmental consultant. ("PMO") shall be appointed by the Planning Authority in accordance with the terms of the planning monitoring scheme to monitor compliance during the decommissioning, restoration and aftercare phases of the development, with the costs of such appointment being met in full by the Developer.

**Reason:** To enable the development to be suitably monitored to ensure compliance with the consent issued.

21. (a) There shall be no Commencement of Development unless a site specific scheme for the working and restoration of the borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include;

- (i) A detailed working method statement based on site survey information and ground investigation;
  - (ii) Details of the handling of any overburden (including peat, soil and rock);
  - (iii) Drainage, including measures to minimise surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
  - (iv) A programme of implementation of the works described in the scheme; and
  - (v) Details of the reinstatement, restoration and aftercare of the borrow pit at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.
- (b) The scheme approved under Part (a) shall be implemented and undertaken in full unless otherwise agreed in writing by the Planning Authority

**Reason:** To ensure that excavation of materials from the borrow pit is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the environmental information accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

22. (a) No later than 3 months prior to the end of the construction period full details including a timetable for the reinstatement, restoration and aftercare of the borrow pit at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles shall be submitted in writing to the Planning Authority for approval.
- (b) The details approved under (a) shall be implemented and undertaken in full unless otherwise agreed in writing by the Planning Authority

**Reason:** To ensure the restoration of the borrow pit.

23. (a) No works shall commence on site unless a Construction and Environmental Management Plan (CEMP) is submitted to and approved in writing by the Planning Authority in consultation with SEPA and SNH. The CEMP shall be submitted to and approved in writing by the Planning Authority no later than 3 months prior to the proposed date of commencement. The CEMP shall incorporate detailed pollution prevention and mitigation measures for all construction elements capable of giving rise to pollution during all these phases of construction, reinstatement after construction and final site decommissioning. The CEMP shall also include any site specific construction method statements provided by the operator as required by the Planning Authority and statutory consultees. The CEMP shall comprise the following details:
- (i) Details of all on site construction and construction of access tracks, including drainage, mitigation, post-construction restoration and reinstatement work, and the timetables for such work;
  - (ii) A scaled plan and details to include the anticipated layout and width of temporary and permanent tracks, cable routing, turbine bases, crane standings, site compounds, control building, areas designated for parking and any ancillary buildings;
  - (iii) Environmental policy statement, to include responsibility for all environmental features, safeguards and mitigation;

- (iv) Details of any tree felling operations,
- (v) Details of wheel washing facilities and their siting;
- (vi) details of the cleaning of the site entrances, site tracks and the adjacent public roads and the sheeting of all HGVs taking spoil or construction materials to and from the site to prevent spillage or deposit of any materials on roads;
- (vii) Details of methods for working cable trenches and foundation works and their timing;
- (viii) Details of the construction of the substation, control buildings and anemometry masts and their timing;
- (ix) Details of bridges and culverts for any new or upgraded water crossings;
- (x) Details of proposals to protect private water supplies on site during construction;
- (xi) Details of how micro siting will be implemented and controlled during the construction process and which shall have reference to the terms of conditions 27;
- (xii) Details of dust management arrangements;
- (xiii) Details of borrow pits which shall include the location, extent and means of working, demarcation of the sites, the volume of material to be extracted, the storage of overburden, drainage measures, air over pressure and ground vibration caused by blasting, landscape and visual impacts, details of blasting (including times for blasting) and restoration scheme with landscaping and timescale information.
- (xiv) Pollution prevention and control arrangements, including protection of water courses and ground water and soils, bunding of fuel storage areas and sewage disposal;
- (xv) Plans showing the details of peat/soil stripping at the site and the storage and proposed use and replacement of peat, topsoil and subsoil. The scheme shall incorporate a method statement setting out the measures to protect and store peat and details of the disposal of surplus materials including peat;
- (xvi) Pre-construction surveys for otters together with any mitigation measures.
- (xvii) Proposals to ensure that at the end of each daily working period, all excavations are made safe to facilitate escape routes for animals.
- (xviii) Details for site waste management.
- (xix) Post construction restoration/reinstatement of the temporary working areas and borrow pits;
- (xx) A construction noise management plan. The plan shall take account of conditions 21 and 23 of this consent;
- (xxi) The arrangements for all on site storage of fuels and oil;
- (xxii) All other pollution prevention issues and related mitigation measures identified in the Environmental Statement submitted with the application.
- (xxiii) The CEMP shall include a finalised Site Environmental Management Plan, Site Waste Management Plan and Soil and Peat Management Plan.

- (b) Construction methods on site shall be in accordance with the CEMP approved under part (a), unless otherwise agreed in writing by the Planning Authority.

**Reason:** To ensure that the development is undertaken in a manner that minimises pollution risk from construction activities.

24. (a) At least three months prior to commencement of development the Developer shall submit a Habitat Management Plan (HMP), for the written approval of the Planning Authority in consultation with SNH, RSPB and SEPA. The HMP shall take account of the mitigation measures outlined in the ES, Addendums and supporting documents which formed part of the planning application package as submitted to the Planning Authority. The HMP shall operate for the full lifespan of the windfarm including decommissioning and include measures for, but not be limited to:
- (i) Protection and restoration of peat land habitat;
  - (ii) Mitigation and management to reduce the potential risk to hen harriers to negligible levels;
  - (iii) Monitoring and mitigation protocols for protected species;
  - (iv) Management and mitigation of habitats and species present on site for the duration of the consent;
  - (v) Habitat and species enhancement opportunities;
  - (vi) Mitigation and management to benefit the species for which the Muirkirk and North Lowther Uplands SPA and SSSI are designated.
- (b) The HMP shall be implemented in accordance with the details approved by part (a), unless otherwise agreed in writing by the Planning Authority.

**Reason:** To protect and enhance local nature conservation interests in the longer term.

25. (a) At least two months prior to the commencement of development the Developer shall appoint a full time independent and suitably qualified Ecological Clerk of Works (ECoW). Details of the proposed ECoW and the terms of appointment shall be submitted to and approved in writing by the Planning Authority and will include, but is not limited to:
- (i) Monitoring compliance with the ecological mitigation works that have been approved in this consent;
  - (ii) Advising the operator on adequate protection of nature conservation interests on the site;
  - (iii) Directing the micro-siting and placement of turbines and tracks in line with condition 27;
  - (iv) Monitoring the compliance with the Habitat Management Plan, Construction and Environmental Management Plan and all relevant method statements approved under the conditions of this consent;
  - (v) Ensuring that good practice measures with regards to the protection of breeding birds are implemented;

- (vi) Supervise bird survey work before, during and immediately after construction; and
  - (vii) Ensure that the full range of relevant protected species checks are undertaken prior to construction.
- (b) The ECoW shall be paid for by the Developer and will remain in post until post-construction restoration is complete. The Ecological Clerk of Works shall have a duty to report promptly, or in any case within two days, to the Planning Authority and the Developer's nominated construction project manager any non-compliance with the hydrological or ecological aspects of the CEMP and any other relevant approved plans approved under planning condition.

**Reason:** In the interests of environmental protection.

26. (a) At least three months prior to Commencement of Development, the Developer shall provide to the Planning Authority written details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration.
- (b) No work shall commence on site until the Developer has provided documentary evidence to the Planning Authority that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory.
- (c) The Developer shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.
- (d) The adequacy of the approved bond or other financial provision will be subject to review at 5 yearly intervals, or such other intervals as agreed by the Planning Authority, from Commencement of Development, to be paid for by the Developer and conducted by a competent independent professional who has relevant experience in such matters. The findings of such reviews will be provided to the Developer and the Planning Authority. Any revisions to the bond or other financial provision recommended by the review shall be made by the Developer within 28 days of that review and documentary evidence provided to the Planning Authority by the Developer to that effect.

**Reason:** To ensure that there are sufficient funds available for the full costs of site restoration.

27. (a) Following the completion of ground investigation studies and prior to the construction of installation of the turbines, buildings, equipment and site tracks, the Developer shall submit details of the precise micro-siting of each turbine and of all ancillary buildings, equipment and site tracks which takes account of the terms of part (b) for the written approval of the Planning Authority.
- (b) The micro-siting shall be no more than 25 metres in any direction with the agreement of the ECoW appointed under condition 25 and between 25 metres and 50 metres with the agreement of the ECoW and the Planning Authority from the position of each turbine, building, equipment or site track (with the exception of (i) and (ii) below) as shown on Figures 1.1 and 1.3a of the Environmental Impact Assessment Report (October 2018), or subsequent detailed plans submitted and approved under a condition of this consent or otherwise as agreed in writing by the Planning Authority.
- (i) No turbine or other feature approved by this consent shall be micro-sited to a revised location if that location is outwith the application site boundary; and

(ii) No turbine or other feature approved by this consent shall be microsituated to a revised location if that location is outwith the administrative boundary of East Ayrshire Council.

(c) Within one month of the completion of all construction works the Developer shall submit finalised details to the Planning Authority of the actual position of each turbine and of all ancillary buildings, equipment and site tracks.

**Reason:** In the interests of environmental protection and to ensure any micro-siting of turbines does not extend beyond the scope of this application site to which this consent relates.

**28.** (a) Prior to the commencement of development a programme of post-construction bird monitoring shall be submitted for the written approval of the Planning Authority, in consultation with SNH and RSPB.

(b) The programme approved under (a) shall be implemented during the post construction period.

(c) Prior to the commencement of development details of a Habitat Management Group (HMG) of which RSPB Scotland should be requested to be a member, to oversee the preparation and delivery of the HMP and to review and assess that information from the ongoing monitoring/surveillance results shall be submitted for the written approval of the Planning Authority. The HMG shall have powers to make reasonable changes to HMP necessary to deliver its agreed aims.

(d) The HMG approved under Part (c) shall be implemented within a timetable agreed by the Planning Authority

(e) An annual report shall be submitted to the HMG and the Planning Authority setting out the monitoring/surveillance results for the preceding year.

**Reason:** To protect and enhance local nature conservation interests in the longer term.

**29.** All trenches should be covered at the end of each working day or include a means of escape for any animal falling in and that any temporarily exposed open pipe system should be capped in such a way as to prevent animals gaining access.

**Reason:** To protect and enhance local nature conservation interests.

**30.** Excavated peat shall not be placed onto another peat surface until the adequacy of the ground to support the load and any additional risk of peat landslide has been assessed by an appropriately qualified geotechnical engineer and the Planning Authority has given written approval.

**Reason:** In the interests of maintaining ground stability.

**31.** Prior to the commencement of development, the developer shall confirm with Scottish Water that no Scottish Water assets (including water supply and sewer pipes, water and waste treatment works, reservoirs etc) are located within the boundary of the application site.

All Scottish Water assets potentially affected by the development should be identified, with particular consideration being given to access roads and pipe crossings. In the event that an asset conflicts with the development then contact should be made with Scottish Water to agree appropriate mitigation.

**Reason:** In the interests of protecting Scottish Water assets.

32. The development should be carried out in accordance with Sewers for Scotland and Water for Scotland 3rd Editions 2015, including provision of appropriate clearance distances from Scottish water assets.

**Reason:** In the interests of protecting Scottish Water assets.

- 33.(a) At least two months prior to the proposed date of commencement of construction of the development, the Developer shall provide the Planning Authority and the Ministry of Defence (the MoD) with a written statement containing the following information:

- (i) The proposed date of commencement of construction;
- (ii) The proposed date of completion of construction; and
- (iii) The proposed maximum height of any construction equipment on site.

and no work shall commence on site until the MoD has confirmed to the Planning Authority that the above information has been provided.

- (b) The Developer shall, as soon as reasonably practical and in any event a minimum of 7 days prior to the event, provide to the Planning authority and the MoD written notice of any proposed changes to the information provided under (a);
- (c) The Developer shall provide written confirmation to the Planning Authority and the MoD of the actual date on which construction is commenced and the actual maximum extension height of any construction equipment on site within 7 days of that commencement date; and
- (d) the Developer shall provide written confirmation to the Planning Authority and the MoD of the actual date on which construction of turbines is completed within 7 days of that date.

**Reason:** To ensure that the MoD is informed of any activities that may potentially affect its interests in respect of overflying of the site.

34. At least 14 days in advance of the proposed date of erection of the first turbine, the developer shall provide the Planning Authority and the MoD with a written statement containing the following information:

- (a) The proposed location of each turbine in latitude and longitude and having taken into account any micro-siting adjustments agreed in terms of condition 27 (in degrees, minutes and seconds);
- (b) The proposed height above ground level of each turbine (in metres to blade tip); and
- (c) that the perimeter turbines are fitted with 25 candela omni directional infrared aviation warning lighting with an optimized flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

No turbine shall be erected on site until the developer has evidenced to the Planning Authority that the above information has been provided to the MoD.

**Reason:** To ensure that the MoD is informed of any activities that may potentially affect its interests in respect of overflying of the site and to ensure that appropriate aviation warning lighting is provided.



35. One month after the completion of construction of all the turbines on the site the developer shall provide the planning Authority and the MoD with a written statement containing the following information:
- (a) the actual location of each turbine in latitude and longitude (in degrees, minutes and seconds);
  - (b) the actual height above ground level of each turbine (in metres to blade tip); and
  - (c) Confirmation that appropriate aviation warning lighting has been installed.

**Reason:** To ensure the MoD is provided with accurate information that can be utilized to protect air safety.

36. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the Developer, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

**Reason:** In order to minimise adverse impacts on archaeology on site.

37. Construction work (including the delivery of construction materials and equipment) shall only take place between the hours of 07.00 and 19.00 on Monday to Friday inclusive and 07:00 to 16:00 on Saturdays, and no such construction work shall take place on Sundays or public holidays. Outside these hours works at the site shall be limited to emergency works, abnormal load deliveries and dust suppression, unless otherwise approved in writing in advance by the Planning Authority. The Planning Authority shall be informed in writing of any emergency works within 24 hours of their occurrence.

**Reason:** To minimise the impact of construction operations on the amenity of local residents.

38. All activities associated with the construction of the development shall be carried out in accordance with British Standard BS5228:2009: Code of Practice for noise and vibration control on construction and open sites - Part 1: Noise and Part 2: Vibration.

**Reason:** To protect the amenity of the area

39. The application site boundary shall not be delineated in any way with the exception of temporary treatments associated with appropriate health and safety or such other pertinent legislation during on going construction works or unless otherwise agreed in writing by the Planning Authority.

**Reason:** To minimise visual intrusion and to allow for better site access during operation.

40. (a) Prior to the commencement of development, the Developer shall submit a method statement to the Planning Authority for its written approval detailing how public access will be maintained to the public right of way (RoW) identified as route B17 and shown on Figure 12.1 of the Amended Environmental Statement during construction works. Should construction activities require that the RoW be temporarily closed, the method

statement shall set out a suitable temporary revised route in proximity to the existing route, appropriate on site signage to advise walkers of the revised route and the length of time that the diversion will be required.

- (b) The method statement approved under part (a) shall be implemented on site as approved during construction works. Upon cessation of the construction works affecting the RoW, the diversion shall be removed and full reinstatement of the RoW undertaken.

**Reason:** To maintain safe public access to the Right of Way during construction works.

- 41. (a) No wind turbine shall be erected until a scheme to secure the investigation and alleviation of any interference to TV reception at residential properties lawfully existing at the date of this permission and caused by the operation of the turbines has been submitted to and approved in writing by the planning authority. The scheme shall set out an appropriate time period during which it will be operational, that period being no less than 1 year following the erection and operation of the final turbine.

(b) The scheme approved under part (a) shall be implemented as approved.

**Reason:** For the protection of television reception for local residents.

- 42. This planning permission will lapse on the expiration of a period of five years from the date of this decision notice, unless the development has been commenced within that period.

**Reason:** In accordance with section 58(4)(c) of the Town and Country Planning (Scotland) Act 1997.

- 43. (i) There shall be no deforestation associated with construction of the Development, excluding site investigation works, unless and until a Long Term Forest Management Plan (LTFMP) has been approved in writing by the Planning Authority. The LTFMP shall provide details of:
  - (a) The area of forestry to be removed within East Ayrshire to facilitate the development;
  - (b) The total area and location within the Penbreck windfarm site (comprising of the land in East Ayrshire and South Lanarkshire shown edged red in Figure 1.1 of the October 2018 EIA Report) that the compensatory planting shall be located to achieve no net loss of woodland cover in East Ayrshire;
  - (c) If there is a deficit in the area of compensatory planting, the size/area of that deficit; and
  - (d) Time periods for implementation of the LTFMP.
- (ii) The approved LTFMP must be implemented in accordance with the timescales set out within that document unless otherwise agreed in writing with the Planning Authority.

**Reason:** To minimise adverse impacts on forestry.

- 44. (i) If the LTFMP approved under condition 43 indicates that there is a deficit in compensatory planting, then no development shall commence unless and until a woodland planting scheme to compensate for the deficit (“the Replanting Scheme”) has been submitted to, and approved by, the Planning Authority in consultation with Scottish Forestry.

- (ii) The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include-
- (a) Details of the location of the area(s) to be planted;
  - (b) A presumption that the area(s) of replanting will be within Ayrshire and Arran but if that area(s) is not within Ayrshire and Arran, justification for not utilising such areas;
  - (c) Details of land owners and occupiers of the land to be planted;
  - (d) The nature, design and specification of the proposed woodland to be planted;
  - (e) The phasing and associated timescales for implementing the Replanting Scheme;
  - (f) Proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and,
  - (g) Proposals for reporting to the Planning Authority on compliance with the implementation of the Replanting Scheme.
- (iii) The Replanting Scheme approved under part (i) of this condition shall be implemented in full, unless otherwise agreed in writing by the Planning Authority after consultation with Scottish Forestry.

**Reason:** To secure replanting to mitigate against effects of deforestation arising from the Development and to comply with the terms of the Ayrshire and Arran Forestry and Woodland Strategy.

#### Reason for decision

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The most significant policy within the EALDP with regards to onshore wind farms is Policy RE3. The application site falls partly within Group 2 and Group 3 areas on account of the part of the application site boundary falling within the Special Protection Area. However, as the area proposed for development is outwith the SPA, the area of site to be developed is Group 3 where wind farms will be supported subject to detailed assessment against the Schedule 1 criteria.

The key assessment policy is RE3 which, through Schedule 1, lists a range of criteria that require to be addressed to ensure that there are no unacceptable impacts. The key variations that require to be assessed are the change in height of the turbines from 125m to tip to 145m to tip and the revised access track locations. The increase in tip height has some additional visual impacts beyond that which were already deemed acceptable under consent 08/0959/FL however these are considered to be very limited, likely to be only noticed in close proximity to the turbines and result in no new additional significant effects. Landscape impacts resulting from the variation is considered to be negligible and very similar to that of the consented scheme. The increased tip height has the potential to impact on the Special Protection Area and SSSI however SNH consider that the integrity of the designation will not be affected, a view reflected in the Appropriate Assessment at appendix 2. The revised access track results in less track length than previously consented although total new track requirement (as opposed to using existing forestry

track) remains approximately the same. With the continued commitment to mitigation such as floating track on deeper peat, the revisions have no significant effects on peat, the water environment or other relevant factors. As set out in detail above, the proposal is considered to be compliant with Policy RE3.

Additionally, the revision to the financial guarantee condition does not conflict with the Policy or supplementary planning guidance. The five yearly period sought brings this development into line with already agreed practice at other East Ayrshire windfarms. In finding compliance with RE3 and considering the detail of the other relevant policies of the LDP, it is considered that the development is also in compliance with a range of other LDP policies including policy OP1, the overarching LDP policy.

No material consideration assessed above indicates that the application should be refused contrary to the development plan. The planning history is particularly noteworthy, setting the scene for what was already considered to be an acceptable level of development and impact. SPP largely reflects the favourable Development Plan position and the presumption in favour of development that contributes to sustainable development is also supportive of the proposals. The slight increase in generation capacity is supported in energy policy particularly as no unacceptable impacts have been identified. No consultee has raised any objection to the proposals and the revisions are considered to meet the terms of Circular 4/1998.

As the proposed variations comply with the Development Plan and the material considerations do not indicate that the application should be refused, the application should be approved. Such approval should be subject to the planning conditions imposed on consent 08/0959/FL but specific conditions varied as sought in this application. In addition a forestry compensation condition should be added as, in error, it was not included in the previous consent, some minor tweaks made to conditions to address spelling errors etc. and a renumbering of the conditions should take place to account for the various changes. Finally, consent should be withheld until a section 75 legal agreement is concluded.

## APPENDIX 1: Comparison table of existing and proposed conditions

Condition	Existing condition wording	Proposed replacement condition
2	<p>The development shall be implemented in full and in strict accordance with the approved plans and the details included within the Amended Environmental Statement and all associated Addendums and associated documents, unless otherwise agreed in writing by the Planning Authority or unless otherwise required by conditions attached to this permission.</p>	<p>The development shall be implemented in full and in strict accordance with the approved plans and the details included within the Penbreck Wind Farm Environmental Statement (2009), the section 42 planning application, and all associated Addendums and associated documents, unless otherwise agreed in writing by the Planning Authority or unless otherwise required by conditions attached to this permission.</p>
3	<p>a) No wind turbine shall be erected or installed on site until details of the structures, including: design, colour and finish, height, rotor diameter and operational sound power levels have been submitted to and approved in writing by the Planning Authority. The design of the turbines shall be consistent with the candidate turbine as approved with the planning application. The overall tip height of the turbines shall not exceed 125m in height.</p> <p>b) The details approved under part 3a shall be implemented in full unless otherwise agreed in writing by the planning authority.</p> <p>c) No name, sign, logo or other advertisement shall be displayed on any external surface of the wind turbines, save those required by law, unless otherwise approved in writing by the Planning Authority.</p>	<p>a) No wind turbine shall be erected or installed on site until details of the structures, including: design, colour and finish, height, rotor diameter and operational sound power levels have been submitted to and approved in writing by the Planning Authority. The design of the turbines shall be consistent with the candidate turbine as approved with the planning application. The overall tip height of the turbines shall not exceed 145m in height.</p> <p>b) The details approved under part 3a shall be implemented in full unless otherwise agreed in writing by the planning authority.</p> <p>c) No name, sign, logo or other advertisement shall be displayed on any external surface of the wind turbines, save those required by law, unless otherwise approved in writing by the Planning Authority.</p>
6	<p>No development shall commence unless and until such time as the Planning Authority receives confirmation from the Airport Operator and NATS that:</p> <p>a) a Radar Mitigation Scheme has been identified; and</p> <p>b) the Radar Mitigation Scheme can be implemented and maintained for the lifetime of the development.</p>	<p>No development shall commence unless and until such time as the Planning Authority receives confirmation from Glasgow Prestwick Airport that:</p> <p>a) a Radar Mitigation Scheme has been identified; and</p> <p>b) the Radar Mitigation Scheme can be implemented and maintained for the lifetime of the development.</p>
7	<p>No blade shall be fitted to any turbine or turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as the Planning Authority received confirmation from the Airport Operator and NATS that:</p> <p>a) All measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented; and</p> <p>b) The Civil Aviation Authority has evidenced its approval to the Airport Operator that the Radar Mitigation Scheme is acceptable mitigation for the development and has been satisfactorily implemented by the Airport Operator.</p>	<p>No blade shall be fitted to any turbine or turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as the Planning Authority received confirmation from Glasgow Prestwick Airport that:</p> <p>a) All measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented; and</p> <p>b) The Civil Aviation Authority has evidenced its approval to the Airport Operator that the Radar Mitigation Scheme is acceptable mitigation for the development and has been satisfactorily implemented by the Airport Operator.</p>
Addition	n/a	<p>No development shall commence unless and until such time as the Planning Authority receives confirmation from NATS that:</p> <p>a) a Radar Mitigation Scheme has been</p>

		<p>identified; and</p> <p>b) the Radar Mitigation Scheme can be implemented and maintained for the lifetime of the development.</p>
<b>Addition</b>	n/a	<p>No blade shall be fitted to any turbine or turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as the Planning Authority received confirmation from NATS that:</p> <p>a) All measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented; and</p> <p>b) The Civil Aviation Authority has evidenced its approval to the Airport Operator that the Radar Mitigation Scheme is acceptable mitigation for the development and has been satisfactorily implemented by NATS</p>
<b>16</b>	Excavated peat shall not be placed onto another peat surface until the adequacy of the ground to support the local and any additional risk of peat landslide has been assessed by an appropriately qualified geotechnical engineer and the planning Authority has given written approval	None (duplicated by condition 30)
<b>25</b>	<p>a) At least three months prior to Commencement of Development, the Developer shall provide to the Planning Authority written details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration.</p> <p>b) No work shall commence on site until the Developer has provided documentary evidence to the Planning Authority that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory.</p> <p>c) The Developer shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.</p> <p>d) The adequacy of the approved bond or other financial provision will be subject to review at yearly intervals, or such other intervals as agreed by the Planning Authority, from Commencement of Development, to be paid for by the Developer and conducted by a competent independent professional who has relevant experience in such matters. The findings of such reviews will be provided to the Developer and the Planning Authority. Any revisions to the bond or other financial provision recommended by the review shall be made by the Developer within 28 days of that review and documentary evidence provided to the Planning Authority by the Developer to that effect</p>	<p>a) At least three months prior to Commencement of Development, the Developer shall provide to the Planning Authority written details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration.</p> <p>b) No work shall commence on site until the Developer has provided documentary evidence to the Planning Authority that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory.</p> <p>c) The Developer shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.</p> <p>d) The adequacy of the approved bond or other financial provision will be subject to review at 5 yearly intervals, or such other intervals as agreed by the Planning Authority, from Commencement of Development, to be paid for by the Developer and conducted by a competent independent professional who has relevant experience in such matters. The findings of such reviews will be provided to the Developer and the Planning Authority. Any revisions to the bond or other financial provision recommended by the review shall be made by the Developer within 28 days of that review and documentary evidence provided to the Planning Authority by the Developer to that effect.</p>
<b>37</b>	Construction work (including the delivery of construction materials and equipment) shall only take place between the hours of 07.30 and 19.30 on Mondays to Saturdays, and no such construction work shall take place on Sundays or public holidays. Outside these hours works at the site shall be limited to emergency works and dust suppression, unless otherwise approved in	Construction work (including the delivery of construction materials and equipment) shall only take place between the hours of 07.00 and 19.00 on Mondays to Friday inclusive and 07.00 to 16.00 to Saturdays, and no such construction work shall take place on Sundays or public holidays. Outside these hours works at the site shall be limited to turbine erection, maintenance, emergency

	<p>writing by the Planning Authority. Any exceptional requirement for the delivery of construction materials and equipment outside the above hours shall only take place if approved in writing by the Planning Authority having been given a minimum of two working days' notice of the proposed delivery. The Planning Authority shall also be informed in writing of any emergency works within 24 hours of their occurrence.</p>	<p>works and dust suppression, unless otherwise approved in writing by the Planning Authority. Any exceptional requirement for the delivery of construction materials and equipment outside the above hours shall only take place if approved in writing by the Planning Authority having been given a minimum of two working days' notice of the proposed delivery. The Planning Authority shall also be informed in writing of any emergency works within 24 hours of their occurrence.</p>
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## APPENDIX 2: Appropriate Assessment

Habitats Regulations Appraisal of the Implications of the proposed Penbreck wind farm on the Muirkirk and North Lowther Uplands Special Protection Area (SPA).

4 March 2019

The following appraisal has been prepared by East Ayrshire Council as the Competent Authority for the above proposal.

	<b>SPA and project Description</b>	
1	Brief description of the proposal	<p>The proposed development comprises the variation of 7 separate planning conditions that are attached to planning consent 08/0959/FL. That permission was for the erection and operation of a windfarm comprising 3 turbines within East Ayrshire (out of a total of 9 turbines) and associated infrastructure including a borrow pit and access tracks. The conditions to be varied relate to turbine height and revised access track layout, aviation radar mitigation, financial guarantee and construction working hours.</p> <p>A section 42 application should focus on the proposed changes to the conditions and as such the variations to the development being sought. However, for the purposes of undertaking an Appropriate Assessment it is considered that the assessment should focus on the whole development, as varied i.e. total effects of the windfarm rather than the narrow changes being sought. This is considered to be a more cautious approach.</p>
2	Brief description of the designated Natura site	<p><u>SPA Citation</u></p> <p>Muirkirk and North Lowther Uplands SPA comprises three adjacent upland areas (situated to the north and south of the town of Muirkirk, and the northern Lowther Hills), together with Airds Moss, a low-lying blanket bog situated between the two upland areas of north and south Muirkirk. The predominant habitats include semi-natural areas of blanket bog, acid grassland and heath.</p> <p>The boundaries of the SPA are coincident with those of North Lowther Uplands SSSI, Blood Moss and Slot Burn SSSI, Garpel Water SSSI, Ree Burn and Glenbuck Loch SSSI and coincident with those of Muirkirk Uplands SSSI, except for the exclusion of the Upper Heilar and Tarmac forestry plantations on Airds Moss and the exclusion of Blood Moss, south of Dalblair. The SPA extension at</p>



Anderside Flow follows the SSSI extension.

Muirkirk and North Lowther Uplands SPA qualifies under Article 4.1 by regularly supporting populations of European importance of the Annex 1 species: hen harrier *Circus cyaneus* (between 1994 and 1998, an average of 29.2 breeding females, 6% of the GB population and between 1991 and 1995, an average of 12 individuals, 2% of the GB population); short-eared owl *Asio flammeus* (between 1997 and 1998, an average of 26 pairs, 3% of the GB population); merlin *Falco columbarius* (between 1989 and 1998, an average of 9 pairs, 0.7% of the GB population and selected as one of the most suitable sites for merlin in GB); peregrine *Falco peregrinus* (between 1992 and 1996, an average of 6 pairs, 0.5% of the GB population and selected as one of the most suitable sites for peregrine in GB); and, golden plover *Pluvialis apricaria* (1999, an estimated minimum of 154 pairs, 0.7% of the GB population and selected as one of the most suitable sites for golden plover in GB).

Muirkirk and North Lowther Uplands SPA also qualifies under Article 4.1 by regularly supporting a wintering population of European importance of the Annex I species **hen harrier** *Circus cyaneus* (average of 12 individuals between 1991 and 1995, 2% of GB).

#### Additional

During the breeding season the SPA supports:

Golden Plover, 175 pairs representing at least 0.8% of the breeding population in Britain;  
Hen Harrier, 30 pairs representing at least 6% of the breeding population in Great Britain;  
Merlin, 12 pairs representing at least 0.9% of the breeding population in Great Britain;  
Peregrine, 9 pairs representing at least 0.8% of the breeding population in Great Britain;  
Short eared owl, 30 pairs representing at least 3% of the breeding population in Great Britain.

Overwinter the SPA supports:

Hen Harrier, 10 individuals representing at least 1.3% of the wintering population in Great Britain.

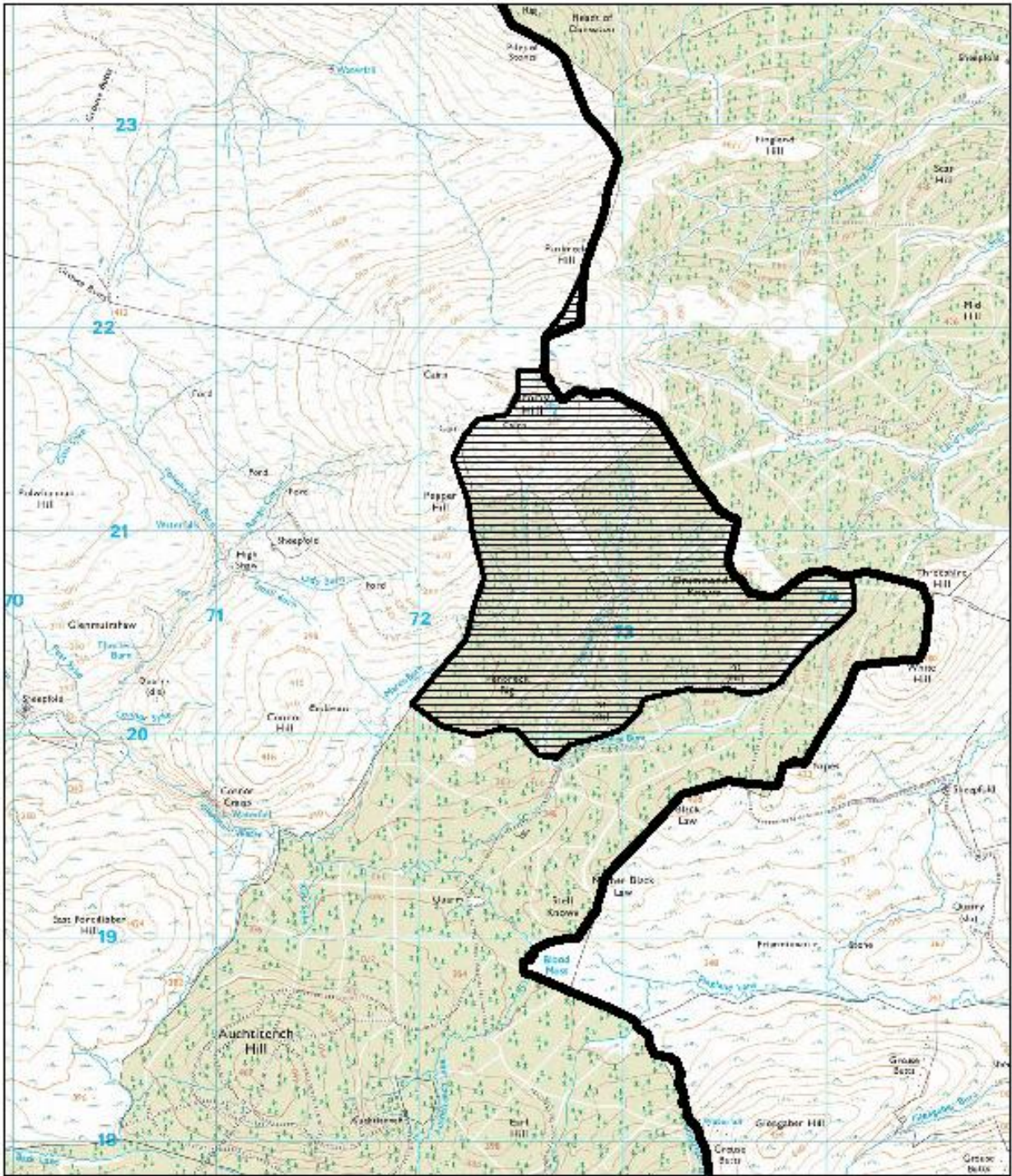
		Based on the most recent information 5 of the 6 designated features are assessed as having an unfavourable condition with only short eared owl assessed as having favourable condition. This is based on information ranging from 1998 to 2015 and taken from SNH sitelink.
3	Conservation objectives for the SPA	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species (QS) that the following are maintained in the long term:</p> <p>Population of the species as a viable component of the site  Distribution of the species within site  Distribution and extent of habitats supporting the species  Structure, function and supporting processes of habitats supporting the species  No significant disturbance of the species</p> <p><b>Qualifying Species:</b>  Golden plover (<i>Pluvialis apricaria</i>)  Hen harrier (<i>Circus cyaneus</i>)  Merlin (<i>Falco columbarius</i>)  Peregrine (<i>Falco peregrinus</i>)  Short-eared owl (<i>Asio flammeus</i>)</p>
	<b>Significance of effects: Screening</b>	
4	Is the proposal directly connected with, or necessary to, conservation management of the Natura site?	The proposal <u>is not</u> directly connected with, or necessary to, conservation management of the Muirkirk and North Lowther Uplands Special Protection Area.
5	Consider whether there are any likely direct, indirect or secondary impacts of the project on the Natura site	<p>The potential impacts of the proposed development include:</p> <p>(i) The impact of the proposed turbines and access track on the breeding birds in the area.  (ii) Potential collision risks with turbines for breeding birds in the area.  (iii) Potential disturbance of breeding birds as a result of construction or operational activity.</p>
6	Consider the key phases of development and the risk of effects associated with each.	<p>Construction work:</p> <p>(i) Potential disturbance of golden plover, hen harrier, merlin, peregrine and short eared owl.</p>


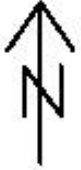
		<p>(ii) Potential displacement of hen harriers, peregrine falcon, merlin, golden plover and short eared owl as a result of the proposed wind farm.</p> <p>Operational:</p> <p>(i) Potential displacement of hen harriers, peregrine falcon, merlin, golden plover and short eared owl as a result of the proposed wind farm.</p> <p>(ii) Potential collision risk from hen harriers, peregrine falcon, merlin, golden plover and short eared owl, flying over the windfarm to reach habitat on the other side.</p> <p>(iii) Cumulative collision risk with other wind farm development.</p>
7	<p>Appraise which individual elements of the overall project would give rise to the greatest risk of effects. State any element of the project where the scale or magnitude of effect is not known.</p>	<p>The application site encompasses a part of the SPA at Stony Hill however there is no infrastructure located within the SPA.</p> <p>The greatest risk of effects is considered to be collision risk during the operational phase as disturbance during construction phase is of the same nature as the previous consent and the habitat of the previous layout is the same as this layout and therefore continues to be of low suitability for QS.</p> <p>There is no element of the project where the scale or magnitude is not known.</p>
8	<p>Is the plan/project likely to have a significant effect on the SPA, either alone or in combination, with other plans or projects?</p>	<p>A small part of the development site is located within the Muirkirk and North Lowther Uplands SPA (at Stony Hill). It is however of significance that the infrastructure which forms part of the proposed development is located outwith the SPA boundary.</p> <p>The Applicant provided details at the time of the 08/0959/FL application consideration noting that no nest sites of any of the qualifying species are recorded closer than 1.1km from the turbines. Furthermore it is noted that such distances refers to distances when considering all nine turbines, the distances to the three turbines under consideration may therefore be greater. The updates environmental information does not change this. Further, updated collision risk figures are provided accounting for the larger turbine tip heights. This demonstrates that the tip height change has no effect on the previous conclusions which were that the estimates of collision risk were not a</p>

		<p>significant collision risk during the operational lifespan of the development.</p> <p>In relation to cumulative collision risk, none of the environmental information indicates that a significant effect will occur. SNH note that any addition to cumulative impacts on the SPA would not in their view lead to an adverse effect on site integrity.</p>
	<b>Appraisal of Impacts on Site Integrity</b>	
<b>9</b>	Identify the relevant conservation objectives to consider for the SPA.	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> <li>• Population of the species as a viable component of the site</li> <li>• Distribution of the species within site</li> <li>• Distribution and extent of habitats supporting the species</li> <li>• Structure, function and supporting processes of habitats supporting the species</li> <li>• No significant disturbance of the species</li> </ul> <p>Qualifying Species:  Golden plover (<i>Pluvialis apricaria</i>)  Hen harrier (<i>Circus cyaneus</i>)  Merlin (<i>Falco columbarius</i>)  Peregrine (<i>Falco peregrinus</i>)  Short-eared owl (<i>Asio flammeus</i>)</p>
<b>10</b>	Can it be ascertained that the proposal/plan will not adversely affect the integrity of the SPA?	<p>In respect of the proposed wind farm development, which proposed the erection of three wind turbines within the boundaries of East Ayrshire, an assessment of SPA qualifying species has been undertaken and is included in the Amended Environmental Statement originally submitted during the consideration of consent 08/0959/FL.</p> <p>In addition further details were submitted following a request from Scottish Natural Heritage, also during the consideration of consent 08/0959/FL. The following is concluded from that information:</p> <p>The proposed development does not result in habitat loss within the Muirkirk and North Lowther Uplands SPA.</p> <p>No nest sites are located closer than 1.1km from the proposed turbines (this distances represents all nine turbines and as such the</p>

		<p>three turbines located within East Ayrshire may therefore be located at a greater distance).</p> <p>Qualifying species do not breed in the vicinity of the proposed turbine locations while the main activity of the qualifying species is also not located within the vicinity of the proposed turbines. Disturbance/displacement is therefore not considered to be an issue.</p> <p>The forest is not a preferred foraging area for the qualifying species with no flights corridors across the forest between the difference parts of the SPA.</p> <p>Collision risk modelling for the two breeding season gave very low collision risks for the qualifying species. Over the 25 year lifetime of the turbines the annual collision rates are as follows:</p> <ul style="list-style-type: none"> <li>c. Hen harrier: 0.12</li> <li>d. Peregrine: 0.06</li> <li>e. Golden plover: 0.07</li> </ul> <p>Furthermore it should be noted that the above collision rates relate to all nine wind turbines and as such the collision rates which relate to the three turbines within East Ayrshire are likely to be lower.</p> <p>The updated environmental information which takes account of the proposed changes to the development indicates that the information remains robust and largely unaffected by the proposed changes. This confirms that the proposal will not adversely affect the integrity of the SPA, a view shared by SNH in their consultation response.</p>
11	Consider whether mitigation measures or conditions can be adopted to avoid impacts on site integrity.	The Applicant will produce a Habitat Management Plan, to be secured through planning condition. That condition is to secure, amongst other matters, mitigation and management to benefit the species for which the Muirkirk and North Lowther Uplands SPA and SSSI are designated. This will contribute to an overall reduction in risk across all wind farms that surround the SPA although in itself it is not required to mitigate an adverse impact on site integrity (as no such significant adverse impact is predicted).
	<b>Conclusion of Appraisal</b>	
12	Can adverse impacts on site integrity be avoided?	Adverse impacts on site integrity are avoided by the development.





<p><b>Title/Location</b></p> <p><b>Penbreck Windfarm</b></p> <p><b>Nr Douglas</b></p> <p><b>Application No. 18/0841/PP</b></p>	<p><b>East Ayrshire Council</b></p> <p>Economy and Skills</p> <p>Planning &amp; Economic Development</p> <p>The Johnnie Walker Bond</p> <p>15 Strand Street</p> <p>Kilmarnock KA1 1HU</p> <p>Tel: (01563) 576790</p> <p>e-mail : <a href="mailto:submittoPlanning@east-ayrshire.gov.uk">submittoPlanning@east-ayrshire.gov.uk</a></p> <p>Com Date: 22/03/2019</p>
<p><b>Key</b></p> <p> <b>Application Site</b></p>	<p></p>

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# Brookfield

PROJECT NAME  
**Kennoxhead/Penbreck**

- KEY:
- ⊕ Kennoxhead Turbines
  - ⊕ Penbreck Turbines
  - ⬜ Kennoxhead Boundary
  - ⬜ Penbreck Boundary
  - Consented Construction Compound
  - Penbreck Access Tracks
  - ⊕ Consented Borrow Pits
  - Kennoxhead Access Tracks
  - ⊕ Substation
  - ⊕ Construction Compound
  - ⊕ Crane Pad and Laydown Area
  - ⊕ Borrow Pits
  - ⊕ Permanent Met Mast
  - ⊕ Water Crossing - Upgraded



TITLE  
**Figure 1.1 Penbreck and Kennoxhead Wind Farms Infrastructure Layout**

MAP NAME  
**PBK\_KNH\_TL3\_012\_Infrastructure\_18052017.mxd**

DATE: 18/10/2018  
 SCALE: 1:50,000  
 SIZE: A3  
 DRAWN BY: CB  
 APPROVED BY: CB

