

EAST AYRSHIRE COUNCIL

PLANNING COMMITTEE: 21 OCTOBER 2016

**13/0210/PP – CONSTRUCTION OF A WIND FARM COMPRISING UP TO 9 WIND
TURBINES AND ASSOCIATED INFRASTRUCTURE INCLUDING ACCESS TRACKS,
CONTROL BUILDING, METEOROLOGICAL MASTS, ELECTRICAL CABLING AND
TEMPORARY CONSTRUCTION COMPOUND**

APPLICATION BY PEEL WINDFARMS (GARLEFFAN) LIMITED

**Report by Head of Planning and Economic Development
Economy and Skills**

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/applicationDetails.do?activeTab=summary&keyVal=MKMUBNGF02400>

EXECUTIVE SUMMARY SHEET

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present for determination an application for planning permission, to be considered by the Planning Committee under the current scheme of delegation as it is a Major Development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The application is not considered to be significantly contrary to the development plan.

2. RECOMMENDATION

- 2.1 **It is recommended that the application be refused for the reasons on the attached sheet.**

3. CONTRARY DECISION NOTE

- 3.1 Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development the application would not require to be referred to Council as it would not represent a significant departure from Council policy. The proposal does not represent a significant departure from the Development Plan as the general principle of renewable energy generation is supported, subject to detailed assessment against various criteria. The proposal has been found to be unacceptable following this detailed assessment. The referral to Scottish Ministers noted at the Legal Implications section above would remain however.

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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BACKGROUND AND HISTORY OF APPLICATION

2. This planning application was submitted by the applicant following the formal Pre Application Consultation process and made valid by the Planning Authority on 2 April 2013. Following statutory notifications, consultation and assessment of the scheme, the Planning Authority wrote to the applicant on 10 October 2013 setting out significant concerns about the development. In response to this and consultee comments the applicant sought to submit a revised scheme under Section 32(A) of the Town and Country Planning (Scotland) Act 1997 (as amended). The key change proposed by the applicant was to reduce the number of turbines from nine to six.
3. After due consideration of the proposed procedure, the Planning Authority agreed to the submission of a revised scheme as set out by the applicant. This was subject to the caveat that another round of notification and consultation would be issued by the Planning Authority as allowed for by Section 32(A)(4) of the Act.
4. The applicant subsequently submitted the revised scheme in August 2014 which comprised of Additional Environmental Information under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 and referred to by the applicant as Supplementary Environmental Information (SEI). This revised information was subsequently advertised, neighbour notified and consulted upon by the Planning Authority.
5. Whilst the description remains as *up to 9 turbines*, the actual proposal under consideration is for 6 turbines and associated infrastructure, as set out in the applicant's

SEI submission. These turbines continue to be numbered within the SEI as 4 through 9 for consistency with turbines 1 through 3 no longer proposed.

APPLICATION DETAILS

6. **Site Description:** The application site is located north of New Cumnock on land that formed part of the Garleffan and Grievehill Surface Coal Mines (SCM) and agricultural land at Avisyard Hill. The site is roughly 'Y' shaped with the base forming the site access road. The site access is located off the A76 and utilises the existing SCM access located approximately 300 metres west of the Pathhead area of New Cumnock. The main site area is split into two sections forming the arms of the 'Y'. The western section incorporates parts of Avisyard Hill which is also the highest point of the site at 330AOD. The eastern arm primarily incorporates part of the partially restored former Grievehill SCM. This part of the development site is located approximately 2.4km north east of the Mansfield area of New Cumnock.
7. The site encompasses an area of just under 170ha of which 118.5ha comprises of land associated with the Garleffan and Grievehill SCM's with the balance comprising of upland grassland agricultural land. The site ranges from a low point of approximately 190m AOD at the site access junction with the A76 to 330m AOD on Avisyard Hill.
8. The site is bounded by a mix of agricultural land and land associated with the SCM's both restored and unrestored. The agricultural land is primarily located on the western, north western and south eastern boundaries. An area of recently felled forestry bounds the western central section of the site. The central northern part of the site includes predominantly restored land and waterbody associated with the Garleffan SCM and the remainder of the Grievehill SCM adjoins the eastern site boundary and remains primarily unrestored including a large void now filled with water and land which has been disclaimed under Section 186 of the Insolvency Act and therefore remains ownerless.
9. The western part of the site is designated as a Provisional Wildlife Site, a local designation. Outwith but in proximity to the site, the boundary of the Muirkirk and North Lowther Uplands Special Protection Area (SPA) and the supporting Muirkirk Uplands Site of Special Scientific Interest (SSSI) are 500m to the east of the closest point of the site eastern boundary and part of the SPA falls within the Grievehill SCM.
10. **Proposed Development:** The application proposes the following:
 - 6 wind turbines up to 135 metres to tip height comprising of a maximum hub height up to 83 metres and a maximum rotor diameter of 107 metres;
 - Hardstanding area of 2,100m² adjacent to each turbine;
 - Turbine transformers located within the turbine or adjacent to each tower, measuring 7m by 5m;
 - New on site access tracks of approximately 1.4km in length, the upgrading of 1.6km and the use of 3.9km of existing track;
 - A number of passing places measuring 40m in length by 2.5m wide located adjacent to existing and new access track;
 - 1 new water course crossing;

- A substation and control building;
- one freestanding lattice type meteorological mast of up to 83m in height;
- on site underground cabling;

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

- A temporary site compound for construction and storage utilising an existing compound associated with the SCM;
- A site office;
- A 50m micro siting tolerance;

The application also promotes:

- An 8 month construction period;
- A 25 year operational period;
- An unspecified decommissioning and restoration period.

11. The windfarm proposal comprises the erection of 6 three bladed turbines with an individual rating of up to 3.6 megawatts providing a maximum total capacity of 21.6 megawatts. The turbines are all located in the eastern part of the application site with no development now proposed within the northern, Avisyard Hill, section of the site. All of the turbines are located within the boundaries of the former SCM sites with four turbines located on undisturbed ground, one on ground that has been restored to its former site level and one on unrestored ground albeit at a level that is similar to the approved restoration masterplan. A degree of regrading would be required to the land at and/or nearby to two turbines.
12. The applicant has suggested that one of three identified ports would be used for the delivery of turbines. These are Ayr, Rosyth and Grangemouth. The applicant has set out proposed routes for each with all options utilising the A76 from where it joins with the A77 until the site access is reached outside New Cumnock. Within the site upgraded and new access track would generally be of 5m in width, up to 7.5m on bends and with 1m cable trenches alongside. All materials associated with the access tracks, hardstandings etc. will require to be imported to the site as no on site borrow pit is proposed. Concrete, sand, gravel and any other construction materials will also be required to be delivered to the site.
13. A permanent on site compound measuring 30m by 10m and control building of 15m by 6m for the wind farm with access and parking is required and would be located off the main access road between the A76 site access and the first turbine location. A temporary site construction compound will also be required during the construction phase to provide site accommodation, welfare facilities, parking and storage provision. The applicant proposes to utilise the existing facilities and location of the Garleffan SCM site offices, facilities, storage areas, refuelling and parking. The applicant envisaged that this area would be restored as part of the SCM restoration works.
14. One permanent freestanding meteorological mast up to 83m in height is proposed and would be located centrally within the eastern part of the site between turbine numbers 5,

6 and 7. The applicant has proposed a micrositing tolerance of up to 50m for elements of infrastructure.

15. The proposed development will require a connection to the main electricity grid. The applicant envisages an underground connection being made to the Coylton substation some 15km west of the site. This is outwith the scope of this application and may require a separate consent under Section 37 of the Electricity Act.

CONSULTATIONS AND ISSUES RAISED

16. Due to the reduction from the original 9 turbine development to 6 turbines, the consultees were reconsulted on the development. A summary of the consultee comments is provided below and represent the most recent response provided. Where appropriate the previous response of the consultee has also been summarised if it is pertinent to their most up to date position.
17. Ayrshire Roads Alliance has no objection to the development subject to a condition for the provision of a Traffic Management Plan (TMP) to be submitted prior to the commencement of construction. This would require to identify the source(s) of construction material.
18. Ayrshire Roads Alliance (Flooding section) has no objections to the development.
19. Environmental Health have no objections to the development but have offered comments including proposed working times restrictions, operational turbine noise limits, a programme for the protection of private water supplies, dust suppression, disposal of waste, drainage and contaminated land.
20. Scottish Natural Heritage (SNH) has raised no objection to the development subject to the imposition of a number of planning conditions. SNH advice is focused on four key matters: European Interests – Muirkirk and North Lowther Uplands SPA, bats, European and nationally Protected Species other than bats and landscape matters.
21. In relation to the SPA, SNH is satisfied that sufficient information has been presented to establish that the notified bird species will not be adversely affected and as such the integrity of the SPA will not be affected. Furthermore, SNH advise that should the Council be minded to carry out an Appropriate Assessment under the Habitats Regulations, they are of the opinion that the proposal as it currently stands would pass.
22. On the matter of bats, SNH is satisfied that the development will not have a significant negative impact on bat species. SNH welcome the proposal by the applicant to prepare a monitoring plan and in time, if bat activity increases, to potentially introduce a turbine curtailment plan.
23. For other European and nationally protected species, SNH recommend that planning conditions be attached which require the provision of an Ecological Clerk of Works to undertake prior to commencement protected species surveys with the finding used to inform a Construction Environmental Management Plan (CEMP), also a condition of consent.

24. Finally, on landscape matters SNH welcomed the deletion of the three Avisyard Hill turbines but a request to reduce the height of the turbines remains. The reduction in height would, according to SNH, decrease the scale disparity between the turbines and the land form on which they sit and reduce the prominence of the turbines when viewed from nearby settlements, roads and core paths within the Upland Basin Landscape Character Type (LCT).
25. In their detailed comments on landscape matters SNH express a view that this location is more sensitive as it is on the boundary of LCT's than if it was set back further into the LCT. They advise that when seen from the Upland Basin LCT the turbines appear to dominate the valley resulting in significant impacts on nearby settlements, footpaths and roads. The turbines also appear to overwhelm smaller scale characteristic landscape features of the Upland Basin valley sides such as small woodlands, trees etc. which act as ready scale references, emphasising the scale disparity and prominence of the turbines and finally that there is a substantial scale disparity between the height of the turbines and the hills on which they sit. This does not accord with SNH windfarm guidance.
26. SEPA has no objection to the development subject to planning conditions. These conditions include the submission of evidence prior to the commencement of development that the Cameronsike CAR licence has been transferred to the applicant and that a CEMP is submitted detailing how surface water would be controlled. Further, an updated Pollution Prevention Plan and a detailed peat management scheme should also be conditions of consent.
27. Historic Environment Scotland (HES) has no objections to the proposal as there will be no significant adverse impacts on historic environment features within their remit. Note: At the time of consultation Historic Scotland was the national body with cultural heritage responsibility but it has now been replaced by HES and hereafter references are to HES, the correct position at this time.
28. West of Scotland Archaeology Service agreed with the finding of the Environmental Statement (ES) that a watching brief condition would be required for ground disturbance on land that had not previously been disturbed i.e. the Avisyard Hill area of the site.
29. Scottish Water has no objection to the development.
30. Transport Scotland has no objection subject to planning conditions regarding abnormal load delivery routes.
31. National Air Traffic Services has identified an unacceptable technical impact and objects to the proposal.
32. Glasgow Prestwick Airport has objected to the development due to expected adverse impact on primary surveillance radar but is discussing suitable mitigation measures with the developer.
33. The Ministry of Defence has no objection subject to each turbine being fitted with 25 candela omni directional red lighting or infrared lighting with an optimised flash pattern

of 60 flashes per minutes of 200ms to 500ms duration at the highest practical point. The MoD Safeguarding wishes to be consulted and notified about the progress of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

34. The CAA has highlighted that any obstacles over 150m in height require to be fitted with medium intensity steady red lights.
35. Glasgow Airport has no objection.
36. The Coal Authority has raised no objection subject to the imposition of planning conditions. These planning conditions support the recommendations made in the Environmental Statement regarding the use of intrusive site investigation works to be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. Therefore conditions should ensure that such works are undertaken and thereafter if the investigation confirms that remedial works to treat mine entries and/or shallow/surface mine workings this should be undertaken prior to commencement of development.
37. Scotland Gas Networks have no objection.
38. Scottish Power Energy Networks have no objection to the development.
39. British Telecom have raised no objection.
40. New Cumnock Community Council (NCCC) objects to the application noting that as the already consented Afton windfarm will be opposite to the proposal as well as the already constructed Hare Hill, the consented Hare Hill extension, existing Windy Standard and Windy Standard extension and the other proposed windfarms, namely; Lorg, Pencloe, Lethans, High Glenmuir, Penbreck, Knockshinnoch, Sandy Knowe, Glenmuchloch, Enoch Hill, Polquhairn, Kyle South, to name but a few. NCCC have grave concerns that this proposal will add to the perception that New Cumnock will be completely surrounded by windfarms on all sides.
41. They also advise that the Nith Valley has for many decades carried the heavy burden of opencast mining and with the demise of that industry, leaving vast areas of our environment laid to waste. East Ayrshire is promoting environmental tourism as the means of regenerating this very deprived area and we feel being dominated with these overbearing industrial structures will not be conducive to bringing out the best New Cumnock parish has to offer visitors. NCCC feels the landscape has already reached its capacity with developments already consented. Allowing windfarms to be linked to previous opencast sites merely replaces an environmentally destructive industry with an even more visually damaging one.
42. Finally NCCC advise that the proposed use of re-directing community benefit funds to PARTIALLY restore a legacy left by the coal industry is felt to be 'misapplication of funds'. The community benefit should be made available directly to the communities for their own plans, not for repairing the legacy left by another failed industry. NCCC do not wish to allow this proposal to set precedence for all other opencast sites to potentially

become windfarms and thereby depriving communities of the community benefit they need for their own future plans.

43. Sorn Community Council has no objections.
44. Netherthird Community Council supports the development.
45. Cumnock Community Council objects to the application as they feel that there will be no benefit of long term local employment. There are no guarantees that this development will create youth opportunities in the form of apprenticeships or otherwise. These plants are an uneconomical and inefficient way to produce electricity. They are visually intrusive, industrialise the landscape, have detrimental health and financial impact on people's lives, destroy wildlife and have a negative impact on tourism. The billions of pounds wasted on these projects should be used in other areas to improve the lives of local people.
46. Cronberry, Logan and Lugar Community Council have objected to the development. They advise that in East Ayrshire Council's Opencast Coal subject Plan [2003] a. Policy Min 29 identified the Glenmuir Valley as one of three areas whose physical setting and recreational quality was considered to be of importance to the local economy or the enjoyment of local residents. Furthermore the Council would not be supportive of proposals which impinge or adversely affect these areas. b. Policy Min 30 identified the Glenmuir Valley as one of four areas where developments will not be considered where they would be detrimental to the landscape and scenic quality. Sadly, both of these Policy Mins. were passed over when permission was granted for the Open Cast site at Garleffan and the subsequent site at Laigh Glenmuir with the associated conveyor to Crowbandsgate then further extension at Duncanziemere. Though these decisions were difficult for local residents there was hope that the requirement for eventual restoration would return the Glenmuir valley as near to its original state as possible.
47. This application pays no heed to these two Policy Mins and the aftermath; instead it imposes yet another highly visible, inappropriate and unacceptable development within the area.
48. The site for this development lies partly on a former SCM at Grievehill which remains only partly restored. The difficulties this presents are now amplified by the current wider problems facing restoration of SCMs within our area. In Section 4.5.2/4.5.3 the applicant justifies their development on this site, by claiming the area has been so changed by coal mining operations that its remote and natural air had been changed by coal mining operations and this would not be reversed. To prejudge this issue as a way of supporting their application indicates a lack of consideration of the views and aspirations of others; it casts doubt on their support for full restoration.
49. In addition to these earlier objections the community council added further objection on the basis that 1. With the restoration of the former SCM unfinished and with the present, uncertainties if this will ever be completed this application coming forward is wholly unacceptable and must not be approved and 2. A proposal by the developer to use the 'Community Benefit Fund' towards restoration of the site has met with very strong opposition within the community. This suggestion has further hardened opinion against this proposal.

50. RSPB Scotland objects to the current application. The RSPB's objection primarily relates to uncertainty over the potential impacts on the Muirkirk and North Lowther Uplands SPA, compounded by uncertainty over restoration of the Grievehill-Garleffan opencast coal site. They advise that consent of a further development at this site before resolution of the legacy restoration issues is unacceptable and would only serve to exacerbate a situation where the needs of local communities and the environment are seen as secondary to those of industry. This is particularly disappointing given the fact that this should have been an opportunity to present and secure a revised restoration plan for the whole site as part of this application. When such uncertainty remains over restoration of the Garleffan, Grievehill and Grievehill extension mines, it is not possible to determine whether the wind farm, in combination with other developments, will have an adverse impact on the integrity of the SPA.
51. RSPB would be prepared to reconsider their position if:
- A restoration plan is agreed with the Technical Working Group for the wider site including the windfarm and the Garleffan, Grievehill and Grievehill extension opencasts sites. While our preference would be for resubmission of the application to include the whole site, an alternative would be for this to be submitted as a separate application. In either case the windfarm should not be consented before a revised restoration plan is agreed and consented.
 - Long term security of tenure is in place for the whole site that will ensure restoration and decommissioning is completed and provide certainty over the long term management of the site.
 - A mechanism is in place to ensure that the financial benefits from any windfarm development contribute in a meaningful way to addressing immediate restoration legacy issues and long term management of the SPA, over the lifetime of the development.
 - Assurance is provided that the conditions attached to opencast consents 00/0526/FL, 98/0452/FL and 06/0537 have been discharged and the impacts from those developments appropriately mitigated.
 - A revised report to inform an Appropriate Assessment of impacts on the Muirkirk and North Lowther Uplands SPA is produced, based on the above measures being implemented.
52. RSPB therefore strongly advises that this application be refused until such time as a revised or additional application can be considered that addresses legacy issues from previous developments at the site and a full assessment can be completed by your authority, in accordance with the requirements of Article 6 of EC Directive 92/43 on the Conservation of Natural Habitats and of Wild Fauna and Flora (the 'Habitats Directive') and The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), which implement the Directive in Scotland.
53. If the Council was prepared to approve the application RSPB request the imposition of conditions including the provision and implementation of a Habitat Management Plan (HMP) and Construction Method Statement (CMS), the appointment of an Ecological Clerk of Works and appropriate financial guarantees be secured to ensure delivery of the HMP, mitigation works and site restoration.

54. Nith District Salmon Fisheries Board (NDSFB) are supportive of the proposal and will be working with the developer to ensure that it does not adversely impact on the aquatic environment of the River Nith or its tributaries.
55. The EAC access officer, Scottish Wildlife Trust, Ayrshire Rivers Trust, Mauchline Community Council, Auchinleck Community Council, Catrine Community Council, Ochiltree Community Council and Muirkirk Community Council have not responded to the consultations.

REPRESENTATIONS

56. Twelve letters of objection from eleven separate objectors (comprising individuals and organisations) have been submitted in connection with this application. The objections from NATS, Glasgow Prestwick Airport, Cumnock Community Council, New Cumnock Community Council, Cronberry, Logan and Lugar Community Council and the RSPB have been summarised above. The remaining points raised have been summarised and grouped under appropriate general headings below.
57. Twelve letters of support from eleven supporters have also been received including those of Netherthird Community Council and Nith DSFB noted above. These points are summarised below following the objection points. It should be noted that 78 letters of support were received from 77 individuals and organisations however these were submitted well outwith the statutory representation period and are not included within this report.

Objections

Former site use and restoration

58. While Garleffan and Grievehill OCCS are not restored, one could say this proposed development was premature: Though parts of these sites may be considered abandoned, under some interpretation of law pertaining to English based companies; we understand that the ruling has still to be tested, in order to claim some restoration money. Nevertheless in planning terms, the sites have not been completed in terms of planning obligations. The Council, as planning authority now has an obligation to make safe, make good and make new. The Council must not be distracted by proposals to re-industrialise this area. Planning consent was only granted for open-casting in such ecologically sensitive areas, on condition, assurances and guarantees that the land would be not only restored, but that disturbance would be mitigated and habitats would be enhanced. We still wait in hope.
59. If this land is developed, then it would prejudice any reasonable restoration up at Garleffan & Grievehill. It might also prejudice the removal of the coal conveyor from Crowbandsgate to Garleffan, but continuing to serve Duncanziemere for a fraction of the life of the proposed windfarm development;- a section which we want to see removed when Duncanziemere ops have ended, with full restoration there too. In this respect, MEGA calls upon the Council to initiate proceedings to remove the remaining section of the conveyor to the east which served Grievehill and the 5km beyond which served Glenmuckloch in Dumfries & Galloway.

60. We have not explored the estimates for decommissioning at the end of the life of any wind-farm, but suspect that the estimate is far too low, and know that financial guarantees for removal and restoration are difficult to secure.
61. I find it cynical by landowners and developers to single out the few sections where there is 'virgin' (i.e un-opencast) ground to site their turbines and thereby ensuring virtually 100% of the ground is exploited and disturbed.
62. As the site is still subject to a previous planning application, I feel that the council has a duty to ensure that there is a comprehensive restoration plan in place (and approved) for the complete opencast site. The current dereliction must have a clear and unambiguous schedule and restoration plan BEFORE any permission is granted for new wind turbine development. For this reason alone, this application is premature and at worst incomplete.
63. This application is partly on Garleffan and Grievehill open-cast sites: These sites were approved for open-casting on the basis that there would be full and timely restoration to bog and moorland habitats. Such undertakings enshrined in S75 Legal Agreements which are a burden on current titles; and are also reinforced by planning conditions. It is noted that ATH are still listed as owners of part of the application site:- The question of whether they can renege on their obligations has still to be determined at law. Until this legal process has been determined, consideration of this application should be suspended.
64. The Coal Authority has expressed concerns about ground stability due to previous open-casting operations: Given that restoration is still unfinished at Garleffan and Grievehill, further subsoil investigation is required. Coal seams caught fire at Garleffan and were left to burn out; so this may further complicate foundation formation.
65. This Valley (Glenmuir) supposedly was to return to more or less its original state through restoration post SCM as a condition of planning approval. It is a travesty if a reviewed restoration planning agreement has been 'accommodated' to manipulate the 'worthiness' of further alien corruption as a means to rectify negligence of the environment.
66. Within the non-technical summary it is claimed that the Council has a registered bond that can be claimed. When will such claim be made? When is the overland conveyor being removed?
67. The land unrestored at the Grievehill SCM has been disclaimed but by whom?

It would be useful if a wide ranging restoration plan was tied into this proposal however this is not the case and the Council requires to determine the application as submitted. The applicant has clarified through submission that the Development does not preclude wider SCM restoration and has very minor consequential restoration benefits itself through the construction requirements. Additionally the applicant proposes a financial contribution towards wider SCM restoration works. In relation to the bond, the Council has a total of £1.4M from the call of the Garleffan and Skares bonds (settled with the bond provider on a

joint basis) with £840,000 secured for the full restoration of Garleffan SCM although no bond money is expected to be realised from the Grievehill bond.

The conveyor belts serving Glenmuckloch and Duncanziemere have been removed with the SPA area restored. While the Grievehill bond has been rejected by the bondsman a restoration fund of c£5.1M has been secured from a combination of bond money, Scottish Government and Council funds to deliver an alternative restoration scheme for the complex. Further detail of this is set out below within the material considerations section.

Landscape and visual impact

68. ENV1 also requires the Council to take particular care in conserving features of local distinctiveness such as the settings of communities, field patterns, historic landscapes: And in particular skylines and hill features which this wind-farm development would damage for a generation. Viewpoints submitted by the applicant demonstrate that these turbines would 'glower' over New Cumnock & be visually intrusive in the peaceful upper reaches of the Glenmuir Valley.
69. ENV2 in the AJSP is designed to protect landscapes;- such as the Sensitive Landscape Area to the east and north of Garleffan: These 135m high turbines would neither protect nor enhance the surrounding uplands, used and enjoyed by walkers, cyclists and ornithologists. 6 high turbines will not attract tourists who visit wild areas for the long uninterrupted views, peace and tranquillity.
70. Building and operating this windfarm will not only blight Watsonburn, a building which has existed for 2 centuries, but also High Polquheys which is still in private ownership. East Ayrshire has lost so many old farmsteads, either due to windfarms or to open-casting. These are important parts of the social history of agricultural development and improvement in our area. It is estimated that over 30 such farmsteads have either gone or are now threatened locally.
71. Although Watsonburn is owned by ATH, this proposal infers that it will be abandoned as uninhabitable during the life of the windfarm. There is no justification to remove part of the area's social history which could have a useful life well after any windfarm development has finished.
72. If this windfarm is proposed, a new cluster of turbines in the Upper Nith Valley will have a detrimental effect on this part of the Southern Uplands. It will also create a dangerous precedent and increase the adverse visual cumulative impact with Windy Standard windfarm situated to the SW of the Nith Valley. The developer acknowledges that Plateau Moorlands such as at those round New Cumnock have a high sensitivity to windfarm development. This can already be seen at Whitelee Windfarm in the NE part of East Ayrshire; where the visual impact is significant at the northern gateway into the area.
73. Now 2 wind-farms are proposed at the southern entrance to the District: Such industrial structures looming over New Cumnock and Cumnock will do nothing to enhance an area already degraded by open-casting.

74. This ES barely recognises the north direction from the 'site' and the potential/actual intrusive nature of the proposals in tandem with a lack of empathy towards an area which seems 'dismissed' overall, nor having the local knowledge of the merit of the Valley to local residents/communities and a historical legacy which has been enjoyed for centuries.
75. The conclusion of the RVA (for Darmalloch property) is ridiculous and arrogant (the Lavender Test). Trees were planted to obscure Avisyard Hill masts. Will the property garden have to be unaltered to comply with these statements, if the site were approved, for 25 years? The property 'test' could be interpreted as an 'unsatisfactory place to live'.
76. The Glenmuir Valley to the north of the development is bounded by the Garleffan and Grievehill ridge topography. There is no apparent photomontage from the western approach roads into the valley looking south/east. The impact of six alien turbines will change the natural environment.

These matters are assessed in detail below at the Development Plan and material considerations sections.

Cumulative landscape and visual impact

77. The cumulative visual impact on the landscape and our community will be unacceptable. Particularly so, as Garleffan and Grievehill opencast have yet to be restored.
78. Cumulative impact - The Lethans site (Banks) will be visible at the eastern/top of the Glenmuir Valley on entry into the valley from the western approach along the 'low moss road' to all who enter.

These matters are assessed in detail below at the Development Plan and material considerations sections.

General environmental matters including effects on the SPA

79. The areas identified for development which include land left derelict on Garleffan OCCS, also include unspoilt parts of the Ayrshire Plateau/Uplands. These have now become more precious - given the damage to the adjoining areas within the SSSI, SPA and Sensitive Landscape Area.
80. Although Avisyard is now excluded from this planning application, all this green upland area will now be under scrutiny by SNH, RSPB, SWT, as there are proposals being considered to extend the SPA to ensure its improved function as a Natura 2000 site. Clearly areas within 1000m of the current SPA boundary will be examined first.
81. These undeveloped areas are identified in the Ayrshire Structure Plan as being part of the Green Network which extends right down to the County boundary with Dumfries and Galloway. (ENV4)- 'Where development affecting the area should be designed to enhance landscape quality; and to expand the habitat potential of the areas concerned.

82. The site may not be within the Muirkirk Uplands SSSI: nor within the Natura 2000 SPA site. It is however very close, where turbine activity will have a deleterious impact on Protected Species for which these designations were formally approved. The developers consider that there would be negligible impact on Protected Species; but they ignore the fact that birds do not respect boundaries when foraging: That it is evident that some birds will have been disturbed and displaced from within the SPA, due to activities at Garleffan; and more particularly at Grievehill. It is also naïve to suggest that there will be no impact on the SSSI, 'as there is no hydrological connectivity';- The peat soils and habitats still exhibit similar characteristics. One of the Approved Structure Plan's guiding principles is that development should not lead to unacceptable damage to priority species and habitats.
83. This area has already had fragile habitats disappear through open-casting; so further reduction, rather than the expected land restoration is unacceptable, when these assets have already been greatly reduced round New Cumnock.
84. There is potential for unknown/actual contamination risk as no information was available for the operations undertaken by the former site operator, Law Mining. Old mine working will seep/drain in time from operations. Watercourses are at risk therefore inclusive of ecological systems, risk to humans?
85. Who is accountable after the 5 years aftercare period? Will landowner stake responsibility? What implications for neighbouring land safeguards?
86. The ES advises that the Glenmuir Water is classified as moderate ecological status with the view of it becoming good ecological status by 2015. Is this aim 'on course', if not surely less potential offers itself if actual/potential sources of pollution are allowed to be permitted?
87. The ES advises that the CAR for the site will be relinquished following restoration and during the aftercare management. Who then assumes responsibility on behalf of the watercourse.

Many of these matters are considered at the Development Plan and material considerations sections below. However it should be noted that an Appropriate Assessment has concluded that there will be no adverse impacts on the site integrity of the SPA. Further, SEPA are content that there will be no unacceptable adverse effects on the water environment. Longer term (post restoration of windfarm) responsibility for the CAR license is a matter for SEPA to address.

Roads and access

88. There is also a Right of Way from Watsonburn up to the o/c site and over toward the County Boundary: This was probably never formally diverted.
89. As well as receptors including No.19 (within the ES this is the Darmalloch property), a walking route locally known as the 'five mile circle' is well used by people from local communities. These intrusive structures will severely impact on already compromised environmental legacy due to 'associated' industrialisation.

These matters are assessed in detail below at the Development Plan and material considerations sections. For the avoidance of doubt the Right of Way from Watsonburn does not cross the windfarm application site.

Financial contribution

90. The funding offer by Peel Energy, on closer inspection is for £500,000: This 'restoration carrot' would not go far, even on part of Garleffan. The other putative £1million seems conditional on the landowner's agreement to forgo some royalties and the profits which might come from the development: i.e.: from subsidies which every domestic power-user funds.
91. Possible financial benefits from approving any such development are not a material consideration, desperate though the Council is to get some restoration started. It is noted that a voluntary contribution of £2500/MW is mentioned, even though the Scottish Government has recommended that this figure should be doubled.

These matters are assessed in detail below at the Development Plan and material considerations sections. For the avoidance of doubt the financial contribution towards SCM restoration is considered to be a material consideration by the Planning Authority based on legal evidence and submissions made by the applicant.

Other matters

92. It is not in a Search Area for windfarm development. The Council identified this Search Area in order to direct developers there and to afford a degree of assurance to local residents that there would not be sporadic windfarm development; to reduce cumulative impact & to avoid sensitive landscape areas.
93. Agricultural activity in the form of hillfarming is far more permanent and environmentally sustainable than wind-farming, where outsiders with nothing than financial gain in mind, bring in specialist contractors: There is minimal spin-off to the local economy during such 8 month construction periods and during the 25-30 year lives of their money-making projects.
94. The job figures are speculative, there are only potential skills and training opportunities. Actual jobs?
95. This part of East Ayrshire is already suffering from depopulation, Lowland Clearances.
96. We note that there are most significant objections already lodged by NATS and the MOD which should by themselves ensure that this development is refused.
97. We also note with some concern that responses from Env. Health do not identify the hydrological difficulties on part of an opencast site where water management was not as it should have been; Nor is the possibility that some land might be contaminated.

98. I object to this Planning Application I feel that there will be no benefit of long term local employment from this development. There are no guarantees that this development will create youth opportunities in the form of apprenticeships or otherwise. These plants are an uneconomical and inefficient way to produce electricity. They are visually intrusive, industrialise the landscape, have detrimental health and financial impact on people's lives, destroy wildlife and have a negative impact on tourism. Local communities should not be promised vast sums of money, on the assumption of this Wind farm going ahead. The billions of pounds wasted on these projects could be better used in our communities to improve the lives of local people.
99. The view from the Glenmuir Water Road is of a pastoral agricultural landscape, shaped through generations to the benefit of recreational and residential receptors. The application via the ES literature is alien. This certainly conflicts with "The Community Plan – delivering community regeneration 2011-2015" re 'leisure' and 'nature based tourism'.
100. What if failure of the aviation warning lights occur?

Matters pertaining to jobs, economic benefits, aviation, noise, the water environment and property impacts are assessed in detail below at the Development Plan and material considerations sections. The search areas of the Development Plan do not preclude windfarm development outwith such areas and neither does SPP. The MoD does not address potential failure of aviation warning lighting (either complete i.e. all 6 or partial) in their consultation however the MoD requires that wind turbines be accurately mapped and holds such information for air safety purposes. Notwithstanding this it would be for the applicant to address such failure as any planning condition would require the installation and maintenance thereafter of such lighting.

Support

Financial investment/community turbine

101. This proposal will bring jobs to the community
102. It will be good for the environment as well as the obvious advantages to the local community.
103. The company consulted well with the community and acted when they were told a community turbine was what was needed.
104. Peel Energy have conducted an ethical consultation which listened to the requests of the community including New Cumnock Community Council who asked for a community turbine and Peel delivered on this. This will help the Scottish Governments target of 500Mw of community ownership by 2020 as well as producing 100% of energy by renewable sources by 2020. They also carried out an honest consultation by offering NO financial inducements thereby allowing the Community Councils to make a decision based on the application itself. This showed great character as the adjacent High Cumnock by Banks Renewables offered significant financial inducements prior to submitting their application to secure planning consent via support from members of the

public and community councils. Apart from the moral and ethical reasons, the Garleffan project is superior in design on a landscape and visual basis and I urge the Planning Committee to consent this excellent project. As a professional in the industry I can confirm that Peel did carry out their consultations in line with Scottish Government guidelines as laid out in PAN 3/2010.

105. The proposals for community interaction with the project, by owning up to half a turbine in the development, are very welcome. I think it is very important for people to feel they have a stake in projects which affect them or their communities and this sort of partnership is a step up from the sort of community based donations made by coal extractors (good though these are), which mitigate the effects of mining, rather than making the community true participants. If the windfarm goes ahead I hope the community will take advantage of this opportunity and that it will encourage other similar ventures in future.

It is agreed that the project will provide an opportunity for local financial benefit including the potential for jobs and is a welcome benefit of the development. The community turbine option (currently one third of a turbine) is also welcome however at this time such matters are not certain to be delivered nor is the detail particularly advanced. This would severely limit any weight to be attributed to contributions to the Scottish Government community ownership target.

Environmental benefits

106. We must act on global warming and a great project like this will help.
107. The project would help East Ayrshire meet Scotland's renewable energy targets as well as restoring the land.
108. The Scottish Government has made an admirable commitment to increasing the percentage of Scotland's energy from renewable resources. I believe that the target is achievable, but it will require an expansion of the renewable sector. One way to do this is to increase the number of windfarms but it is important that they are high quality projects which have taken into account all the associated impacts as fully as possible. Having read the planning and impact statements submitted to you by Peel Energy Ltd with respect to Garleffan, I believe this to be a well thought out proposal for which I hope you will recommend approval.
109. As someone who has in the past objected to a number of proposals for open-cast coal extraction, usually on the grounds of long term habitat damage, I am particularly pleased to see that the Garleffan site will make use of such a degraded area in a useful manner. Despite their overall positive contribution, there are some problems associated with windfarms, particularly when they are installed on pristine peat lands. I therefore greatly welcome a proposal which will instead use land that has already been affected by mining thus not only avoiding damage to important bog habitats but also utilising restored land (which will never return to its pre-extraction condition) instead of leaving it idle.
110. With regard to the proximity of ecologically important areas for rare bird species, I am confident that the impact statement has adequately addressed any concerns that I may

have had when I initially learned about the project at the meeting in Cumnock. Responses from consultees have been taken into account, as they should be, particularly with respect to extending the surveying periods. I do, however, hope that there will be ongoing monitoring of the site after turbines have been installed to ensure that impacts on bird and mammal species (if any) are as low as predicted. This would not interfere with the functioning of the windfarm.

111. My main concerns when such developments are proposed relate to the natural environment, but I do also recognise the importance of impacts on the built environment and local populations. These also seem to have been considered thoroughly. Windfarms do not provide large scale employment directly, so it is necessary to consider indirect impacts which has been done. The impacts on local dwellings (noise, visual amenity, interference with television reception for instance) seem to have been addressed very thoroughly in the impact assessment. With respect to older man made structures I assume that it will be a condition of planning consent that any excavation be attended by an archaeologist conducting a watching brief, even if it is regarded as unlikely that there will be significant finds.
112. The applicants have also considered the cumulative impacts of their project and other existing or planned windfarms which is very important in the context of increased opportunities for such developments to meet government targets. In common with opencasts, windfarms are essentially temporary, and plans for extension of lifetime/restoration of the site are essential if the development itself is to be viable. I believe that this has been covered satisfactorily in the proposals; if there is community participation in the project I hope there will be further local consultation when the time comes.
113. It is a well designed and positioned windfarm

The project would make a small yet useful contribution towards renewable electricity production with resultant benefits to global warming and Scottish Government targets. Commentary on the landscape and visual impacts, impacts on the natural and built heritage and on communities is provided below in relation to the Development Plan.

ASSESSMENT AGAINST DEVELOPMENT PLAN

114. 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 proposed development, the development plan comprises the Approved Ayrshire Joint Structure Plan (AJSP) (2007) and the East Ayrshire Local Plan (EALP) 2010.

Approved Ayrshire Joint Structure Plan

115. Policy ECON 6 Renewable Energy advises that proposals for the generation and utilisation of renewable energy should be promoted and will conform to the plan both in stand along locations and as integral parts of new and existing developments where it can be demonstrated there will be no significant adverse impact, including adverse

cumulative impact or infrastructure constraints, and where the design of the development is sensitive to landscape character, biodiversity and cultural heritage.

Through ECON6, all renewable energy proposals shall be supported where they are deemed appropriate in terms of a number of key considerations. These considerations are dealt with in substantial detail under ECON 7 below, which deals specifically with large scale wind farm developments.

This policy is worded in a strict manner in that where a significant adverse impact occurs it would preclude conformity with this policy. Most if not all commercial windfarms generate significant impacts, most commonly for landscape or visual reasons. On that basis and on strict interpretation of this policy, proposals will always be contrary to this policy. This proposal does generate significant adverse impact and would therefore be contrary to the policy.

The current test is one of acceptability of adverse impact and such wording is utilised in the Local Plan policy CS12 below. Therefore the more appropriate test is whether the significant adverse impacts of the development are unacceptable rather than the presence of significant effects alone.

It would be unreasonable for the Council to refuse a development solely on the grounds of significant impact however it should be noted that in finding unacceptable significant impacts as noted below, such impacts would clearly be contrary to this policy.

116. Policy ECON 7 (Wind Farms) states that:

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

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

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

The application site is outwith areas designated for their national or international heritage value but it is located in proximity to such designations. The Muirkirk and North Lowther Uplands Special Protection Area (SPA) is located to the east of the application site, approximately 500m from the site boundary and 600m from the nearest turbine, turbine 9. The Muirkirk Uplands site of special scientific interest (SSSI) is largely coterminous with the SPA boundary. An area of the SSSI is located outwith the SPA boundary approximately 700m north east of turbine 7. The SPA is designated for its internationally important breeding populations of hen harrier, merlin, peregrine, short eared owl and golden plover and its wintering population of hen harrier. The SSSI supports the SPA designation.

Although it is outwith the designation, the development has the potential to adversely affect the SPA and its qualifying species, primarily through habitat loss and collision with turbines. The relationship of the SPA to the former SCM's is also of relevance as is the potential cumulative impact of this development. The applicant, through the ES and SEI, considers that the development would not have a significant effect on the integrity of the SPA. SNH has advised that they have no objection to the development and that the ES and subsequent clarification which has now been included within the SEI allowed them to withdraw their previous holding objection. Furthermore, SNH are of the opinion that should the Council be minded to carry out an Appropriate Assessment under the Habitats Regulations, the proposal would pass as it currently stands.

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

As stated above, although it is outwith the designation, the development has the potential to adversely affect the SPA and its qualifying species. However, the information submitted by the applicant is considered by SNH to be sufficient to allow the proposal to pass an Appropriate Assessment should the Council consider that one is required. Such an assessment is included as an appendix to this report.

In relation to scheduled monuments and A listed buildings which are considered to be of national importance, there are none located within the site boundary therefore effects are liable to be indirect effects on the setting of such feature located outwith the site. In this case it is considered that the development does not have any significant or unacceptable adverse impacts on the setting of these built heritage features.

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

Cumulative impact is often most associated with landscape and visual impact however it is also applicable to a number of other matters amongst which are cultural and natural heritage and noise.

The key cumulative impact associated with windfarm developments are other windfarm developments. However, consideration of the cumulative impact with the partly restored SCM's is also relevant given the location of this development on such a site.

There are a small number of operational windfarms nearby although there are a number of consented windfarms and a considerable number at application stage. Of most relevance to this proposal are the operational Hare Hill windfarm and the single turbines at Mansfield Mains and High Park Farm, the Hare Hill Extension and Windy Standard Extension developments which are currently under construction and the consented Penbreck (SLC), Sandy Knowe, Glenmuckloch,

Sanquhar, Whiteside Hill and Afton schemes. In terms of the application stage windfarms Lethans, Spango, Penbreck (EAC), Lorg, Pencloe, Enoch Hill, South Kyle, Kennoxhead, Ulzieside and Twenty Shilling Hill schemes are considered to be the most relevant.

Most of the relevant operational or consented schemes are located to the south and south east of the application site at distances greater than 6km and are largely, but not exclusively, located in upland landscape character areas. The larger turbine height schemes tend to be located in the more central areas of this landscape including Afton and Windy Standard Extension. The Hare Hill and Hare Hill Extension schemes are on the fringes of these uplands but generally consist of smaller turbine typology which lessens their landscape and visual effect. The notable exception to this pattern is the Sandy Knowe and Glenmuckloch developments which have been consented on the lower valley slopes of the Nith Valley in Dumfries and Galloway. The Garleffan scheme is not considered to offer unacceptable cumulative impact with these schemes largely due to its clearly separate location to the north of such schemes and intervening landscape. It would however extend the presence of wind farms to the east of the Upland Basin LCT and would be a prominent feature from large parts of this area. Notwithstanding this, it is not considered to offer an unacceptable adverse impact on that area in combination with the existing and consented windfarms previously noted.

Turning now to the proposed windfarms, in combination with the Lethans development it is considered that significant cumulative landscape effects could occur in the area around the development extending towards and up to the Lethans development, affecting the East Ayrshire plateau moorland LCT. Additionally, significant impacts are likely on the Upland River Valley LCT north of the site in the Glenmuir Valley and the western parts of the Nith Valley. The Lethans development is considered to have the most prominent effect in the Glenmuir Valley area and on the plateau moorland due to the larger size and prominence of that development however in the western parts of the Nith Upland River Valley LCT Garleffan would exert the greatest effect due to its proximity and extent. Turning now to the Upland Basin LCT, this proposal would extend the influence of windfarms located around the LCT and would result in its partial enclosure. The spread of schemes from South Kyle in the south west to Lethans in the east would be extended towards the north east by this development. If all of the developments were consented and built a near continuous arc of windfarms would enclose around half of this LCT.

Turning now to cumulative visual impact in particular, a degree of significant adverse impact occurs from some hill top locations to the north of the site such as Cairn Table. The Garleffan development would be located closer to such viewpoints than other schemes in this direction and would occupy a location where no other operational or consented development exists. The key visual interactions come from the operational Hare Hill and Windy Standard windfarms and the consented extensions to both of these schemes and the Sandy Knowe and Afton windfarms.

The location of 135 metre high turbines in a relatively low lying area somewhat jars with the predominantly upland location windfarm development pattern of larger typologies located into the interior of the uplands and smaller turbines located nearer to the upland edges. The landscape and visual impacts of the development are addressed below but the comparison with these developments does perhaps highlight the inappropriate location and turbine height of this development.

Notwithstanding the potential for scale comparisons between this development and the smaller nearby Hare Hill turbines, the cumulative visual impact of this development is not considered to offer an unacceptable impact such that the development should be refused.

When proposed windfarm schemes are taken into account the cumulative visual impact of this development is considered to result in unacceptable significant visual impacts. The settlement of New Cumnock and the smaller settlements located along the B741 would be partially surrounded by the Lethans, Lorg, Pencloe, Enoch Hill and South Kyle schemes in addition to those already operational or constructed. The Garleffan scheme contributes significantly to this as it is located in much closer proximity to New Cumnock in particular than the other schemes. Furthermore, there are potentially very significant cumulative sequential effects on the A76 to which the Garleffan development would contribute.

The Council's noise consultants have advised that cumulative noise will not be unacceptable in this case. Cumulative impact on cultural heritage features is not considered to be significant. With respect to natural heritage matters, the cumulative impact on the SPA with other windfarm developments, the partially unrestored surface coal mines and all of these matters together must be taken into account. An Appropriate Assessment has been undertaken that takes consideration of the cumulative impact of this development and it has been found that the proposal would not have an adverse impact on the integrity of the SPA.

It should be noted that whilst the Council must consider schemes that are currently 'proposed' and in planning when assessing cumulative effects, it is unlikely that all such developments will be given consent or thereafter constructed. Most weight in assessing cumulative impact should therefore be given to existing and consented schemes where certainty, or a much greater degree of certainty, can be established. In this case cumulative impacts from existing and consented schemes are not considered to be unacceptable.

Whilst cumulative impact in association with one or more proposed schemes has been found to be significant and potentially unacceptable, it will primarily be for the decision makers in these other schemes to take account of this development if it were to be consented. Should this scheme be refused and subsequently appealed and other currently proposed schemes approved in the interim, it is feasible that the Council's view of the cumulative landscape and visual impact of the development may require to be revisited.

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

117. Historic Environment

As noted at ECON7(c) above, it is considered that the proposal does not offer any unacceptable impacts on Scheduled Monuments or A listed buildings. This is also applicable to the other categories of listed buildings. Whilst it will be possible to see the development from some listed buildings, this does not equate to an adverse effect on them, taking account of their setting and the interaction the development has with that setting. On this basis the proposal complies with this policy and due to the minimal impact on such features there is no further need to overcome or minimise such effect.

There is potential for adverse effects on the archaeological resource from windfarm developments however in this case the land being developed (as opposed to the application site) has previously been associated with and/or disturbed by the former SCM works. Given the degree of disturbance that has already taken place it is considered that no mitigation works are required to address archaeological matters.

118. Areas designated for their regional and local natural heritage value

Part of the development site where infrastructure is proposed is designated as the Muirkirk South Uplands Provisional Wildlife Site. This designation is for its extensive area of upland habitats providing large extent of blanket bog including good examples of wet and dry heath, base rich flushes and a number of nationally scarce upland plant species, providing excellent habitat for a number of important bird species.

It is considered that any adverse impact is likely to be minimal as the upland habitats have been lost to the former surface coal mine use. Whilst a degree of restoration has taken place at certain points it is not considered that the development undermines this and taken overall the development does not adversely affect this local designation. As noted previously the SPA and SSSI's which are in proximity to the site are of international or national natural heritage value.

119. Tourism and recreational interests

The key impact on tourism and recreation features is largely a result of visual impact. The applicant's environmental statement advises that no significant effects are expected on tourism and recreation features other than significant visual impacts on parts of four local recreational routes (specifically two cycle routes and two rights of way).

The A76 is not a designated tourist route but it is a strategic access location into Ayrshire from Dumfries and Galloway and vice versa. On this basis a proportion of the users are likely to be tourists where the landscape and visual resource

would be of greater value. The windfarm has significant adverse visual impacts on a small stretch of this route.

The adverse visual impact on local recreational routes is significant and would affect a number of routes in East Ayrshire. Such routes are primarily of local status rather than national trails however it is considered that these local routes offer very useful benefit to local communities in particular. The routes most likely to be significantly affected are those in and around New Cumnock and to a lesser extent the Glenmuir Valley. Additionally, popular hilltop and upland locations would also experience significant visual effects. The applicant has not taken account of core paths in their assessment therefore the number of significantly affected local recreational routes is considered by the planning authority to be greater than that assessed. This includes effects on the Knockshinnoch Lagoons, Castle Path and the coalfield cycle route core paths. In addition to the significantly affected rights of way noted by the applicant the local recreational resource around New Cumnock is widely visually affected by this development.

120. Communities

The relevant local settlements are listed below as are a number of individual rural properties. The approximate separation distance from the edge of each settlement/property to the nearest turbine is as follows with a representative viewpoint number from the ES where available:

New Cumnock:	2.4 km's	VP 3 and 7
Cumnock :	4 km's	VP 2, 4 and 5
Connel Park:	4.2 km's	none
Logan:	4.5 km's	VP 6
Bank Glen:	5.1 km's	none

Watsonburn:	0.295 km's	RV 1
High Polquheys:	0.845 km's	RV 6
Roughside Bungalow:	1.205 km's	RV 3
Roughside:	1.270 km's	RV 2
Mounthope:	1.350 km's	RV 4
Guelt Cottage:	1.765 km's	RV 27
Hall of Mansefield:	1.875 km's	RV 5
Nether Guelt:	2.000 km's	RV 26

Following the deletion of the three turbines on Avisyard Hill from the proposal, the number of nearby residential properties has dropped considerably (from 27 to 8 within 2km of a turbine).

The impact of noise and shadow flicker is relevant to the assessment of residential amenity in combination with the visual impact of the development. The individual properties listed above are those closest to the turbines. The applicant has advised that the property of Watsonburn would not be occupied during the 25 year operational lifetime of the development and as such the residential amenity impact on this property from visual, noise and shadow flicker

effects does not need to be considered further. The imposition of a planning condition to impose this is considered to be necessary as it is assessed that impacts from operational noise and the visual effect on the property would render it an unacceptable place to live otherwise. On this basis it is not considered further in the assessment below.

121. **Shadow flicker**

In terms of shadow flicker the SEI predicts that two properties could experience effects, Watsonburn and High Polquheys. This is a worst case prediction and anticipates that both properties could experience up to 33.8 hours of shadow flicker per year but that recalculating for climatic factors it is predicted that High Polquheys could experience 10.8 hours. The applicant offers no mitigation for such affect, noting the time when shadow flicker could occur here (04.11am – 05:46am) but that following complaints submitted to and confirmed by the Planning Authority the turbines would be programmed to shut down.

In Scotland no guidance is available on what is and is not a reasonable degree of impact on residential property from shadow flicker. It is the view of the Planning Authority that such effects should not be suffered at all by properties and that mitigation methods could achieve this.

The imposition of a planning condition that introduces a shut down protocol for turbines to avoid such adverse impacts on residential amenity could be imposed if consent is to be granted. This could have an impact on the production capabilities of the wind farm however given that few turbines are involved and the shutdown periods would be limited it is considered to be an acceptable compromise to adequately protect residential amenity.

122. **Noise**

In relation to noise impacts the Council's consultant has advised that this proposal will not offer unacceptable impact on residential property from windfarm construction noise, operational noise or cumulative operational noise provided that the noise limits advocated by the consultants are incorporated within noise planning condition(s).

123. **Visual amenity (individual properties)**

The SEI advises that only one property, High Polquheys, would experience a significant impact on residential visual amenity but considers that this property would not become an unsatisfactory place to live. The SEI primarily bases this opinion on not affecting the view from the main elevation of the house and the rear of the house having restricted views of the development.

Having visited the properties and taken account of the SEI and ES it is considered that the applicant underplays the effect of the development on a number of properties. With the exception of High Polquheys intervening landscape, built form, distance or a combination of these is sufficient to adequately restrict impacts such that whilst visual effects on a number of them may be significant,

nonetheless they would not be overbearing. However, the effects on High Polquheys as set out below, can be described as overbearing resulting in that property becoming an unsatisfactory place to live.

High Polquheys is located 845m from the nearest turbine. The property is located at a lower elevation than all of the turbines, approximately 265AOD as opposed to approximately 285AOD (the lowest of the six). The turbines as previously noted are 135m to tip height and all six would be fully visible to near their full extent from most of the curtilage and immediate approach to the property, occupying a near 90° arc around the house. From the inside of the house it will be possible to have relatively oblique views of up to two turbines at the front and more direct views of two turbines from the rear albeit landform to the immediate rear of the property offers a degree of viewing restriction.

The approach to the property is via a long access track which gradually climbs in height from the north of New Cumnock before cresting the edge of and dropping down into the 'landscape bowl' within which the house sits. Visibility of the turbines over almost all of this route is predicted and would be experienced northbound on approach to the property but would be subject to some intermittent tree screening along the route. Full views of the development and the first appearance of the house occur simultaneously around 200-300m south of the property where the small crest is topped. The setting of the house can be described as being within a landscape 'bowl' formed by the higher ground at the edges. The turbines are located on the edge of this 'bowl' emphasising their scale in relation to the house and immediate landscape and in effect dominating the setting of the house and its environs.

The gardens of the property are relatively informally laid out however there appears to be garden space at the rear and front of the property. From these spaces all or most of the development is visible and the turbines would be visually dominant. In addition to this it should be noted that the outbuildings and part of the house curtilage also operate for business purposes and as such the residents would spend a disproportionate time outdoors moving around and between the house and the business premises. The sensitivity of those using a site for business purposes is normally considered to be lower than for residential use. However the close tie and dual use of the house/curtilage as the occupant's residence and business premises is considered in this case to prolong and exacerbate the impact of the development at this location.

Following submission of the SEI and in response to the Planning Authority concern about the impact on High Polquheys, the applicant confirmed in writing (letter dated 17 June 2016) that High Polquheys had now become financially involved in the development relating to the present occupiers and any successors in title. The occupants of High Polquheys withdrew their letter of objection in July 2016. The applicant therefore considers that residential amenity impacts on this property are not barriers to the development progressing. The applicant also advises that they have an agreement with the current occupier to plant trees within the curtilage of the property to provide visual screening.

The Planning Authority considers that the principle of a financially involved property receiving residential impacts greater than those at a non financially involved property appears to be reasonable in principle. However, the position that a property which has an unspecified financial involvement in a development is therefore allowed to suffer greater impact to their amenity is a blunt approach to apply to such matters.

The Planning Authority considers that the type of financial involvement must be considered. The property owner of High Polquheys is neither a landowner of the development site or involved in the windfarm development. Essentially the property owners appear set to receive financial compensation to try to resolve the significant and longstanding concerns of the Planning Authority about the impact on this property i.e. that the financial involvement, no matter what this is, would allow for the acceptance of the greater impact.

The degree and type of financial involvement is considered to be a relevant consideration whereby if the property has a close financial involvement, perhaps as landowner where significant rental income could be expected, an extra allowance for impacts would seem to be reasonable. In this case the financial involvement of High Polquheys appears to be akin to financial compensation to try to ameliorate the Planning Authority concern about the property. This is not considered to be a close relationship with the development and is not sufficient to allow greater than normal residential amenity impacts to be regarded as acceptable. On this basis impacts on High Polquheys, even with financial involvement, remain unacceptable.

The tree planting element is noted but is part of a private agreement between the developer and the High Polquheys owner. It is also in response to the Planning Authority concern about High Polquheys. It is not proposed as part of the planning application and there is no Planning Authority control over this. Notwithstanding these issues, it will take time for the planting to become established, there is no guarantee that it will be effective and could be susceptible to wind blow effects or disease. As such little or no weight should be placed on the provision of tree screening around High Polquheys.

124. **Residential amenity conclusion (individual properties)**

Bringing these matters together it is considered that the development can be described as overbearing on the residential visual amenity of High Polquheys. Neither the 'financial involvement' nor the tree planting overcomes this effect for the reasons stated above. It is also noted that there is potential for shadow flicker to be experienced at this property and for a degree of noise impact although impacts are within the tolerances of ETSU-R-97 guidance. Such effects compound the adverse visual impact. Even in the absence of shadow flicker (through planning condition) and noting that noise effects are within acceptable tolerances it is considered that the visual impact is sufficient by itself to be described as unacceptable.

125. **Settlements**

Turning now to the impact on settlements, the key impact falls on New Cumnock. The turbines are 2.4km from the edge of the settlement. Significant noise or shadow flicker effects are not expected to occur here. Visual effects would be experienced over much of New Cumnock due to the extensive predicted visibility of the development combined with the often open outlook from much of the town towards the north. Visibility of the development is widespread across the town as evidenced by the ZTV although it is recognised that built form and vegetation will restrict visibility from parts of the town in practice. Where the turbines are visible they will be seen as prominent features on the rising ground north of the settlement. Visual impacts fall on residential properties, streets and recreational areas with little opportunity for relief locally.

No individual property within New Cumnock receives an overbearing effect such that that property would become an unsatisfactory place to live however a very large number of properties would receive significant visual effects. Many streets and houses are orientated in such a way that clear visibility can be achieved, particularly so those in the southern part of the town which are often in elevated locations as well as those in the northern section of the town which are closer to the development. The size of the turbines is readily apparent from these locations given the smaller scale of the receiving landscape into which the turbines sit and the presence of numerous scale references including houses and trees.

The settlements along the B741 are also significantly affected. Again widespread visibility is achievable from Connel Park and Bank Glen although with increased distance the turbines would be less influential on these small settlements. The redesign of the development by dropping three turbines has removed much of the visibility of the development from Logan and Cumnock although turbine blades/tips may be visible from some locations. The development is not considered to adversely affect either of these settlements to an unacceptable degree.

126. **General Rural area**

The local rural area around the development site is well settled particularly to the south around New Cumnock, the south west in the Upland Basin LCT and in the north in and at the edges of the Glenmuir Valley. There are a number of rural properties in these locations including those mentioned above. A number of these will be subject to significant (but not overbearing) visual effects at their property or when moving around this rural area as visibility of all or parts of the development are available. The visual effects experienced will often be disjointed due to landform however from most locations at least hubs and above of all or some of the turbines will be visible. The effects will be similar to those described for the settlements whereby the turbines will appear disproportionate with the size and scale of the local landscape and scale references including houses and trees/forestry emphasise this impact. This is very noticeable in the vicinity of New Cumnock and also the Glenmuir Valley area.

127. Buffer zones

The Structure Plan guidance requests a 30km buffer around the Areas of Search unless detailed analysis can show that development proposals of more limited scale are acceptable in terms of visual and cumulative impact. The proposed site is located within the 30km buffer from a structure plan search area. Notwithstanding this, the use of buffer zones as envisaged by the Structure Plan is now out of date and does not comply with SPP spatial strategy therefore its location within such a buffer is merely noted.

128. Aviation and defence interests

The consultation responses from the aviation consultees are listed above however it is noted that both NATS and Glasgow Prestwick Airport have objected to the development.

129. Broadcasting issues

The ES advises that television signals could be affected by the development but owing to the digital switchover such impact is likely to be minimal. The developer has advised that mitigation for such effects can be undertaken if it occurs in practice and should the Council be minded to grant consent a planning condition to secure this would be required.

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

The application site and turbines are located outwith the Sensitive Landscape Character Area however indirect impacts can still occur whereby developments outwith the designation could still affect it. In this case the development is likely to have a significant adverse indirect effect on parts of the landscape which makes up the SLCA. This includes an area to the south east in the River Nith Upper River Valley and to the east/north east within part of the plateau moorland. These significant effects are relatively limited and taking account of the six qualities that provide the explanation and justification for the SLCA designation and the nature of the indirect effects, it is considered that this development does not offer unacceptable effects on the SLCA designation.

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

Connection to the grid is outwith the scope of this application however the applicant has advised that an underground connection between the site and the Coylton substation 15km west of the site would be the likely route.

As noted above, there will be an unacceptable adverse impact on both the landscape and local communities.

Also as noted above, ecology, biodiversity and nature conservation are not considered to be unacceptably adversely affected by the development subject to appropriate planning conditions.

In relation to the water environment the most relevant matters are in relation to surface water and acid rock drainage (ARD) matters and private water supplies (PWS). Surface water and ARD impacts are predicted to be significant in the absence of mitigation. The mitigation includes matters such as the transfer of the CAR licence to the applicant and pre, during and post construction drainage and water management measures to effectively separately treat and manage the ARD seepage from uncontaminated waters. These measures reduce impacts to minor and not significant. In relation to PWS the applicant advises that monitoring of the High Polquheys supply took place during the very significant disturbances associated with the SCM use and that no recorded concerns with the abstraction were reported. They advise that the works associated with the development are significantly smaller in scale and that the risks of potential impacts occurring are low. Notwithstanding this low risk, mitigation measures would be included within the CEMP secured by planning condition should the application be approved. Subject to appropriate planning conditions it is considered that impacts to the water environment would not be unacceptable.

Aviation objections from NATS and Glasgow Prestwick Airport remain outstanding. Adverse impact on telecommunications is not expected. There is potential for shadow flicker effects however this could be mitigated through turbine shutdown protocols stipulated through planning condition. The Council's noise consultants have considered the submitted information and have advised that subject to the adoption of the proposed noise limits as identified by ACCON there would be no over-riding reason for refusal in respect of noise.

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

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

The wind turbines as well as the associated access tracks and infrastructure will result in additional road traffic in the local area although this is primarily to be located on the A76 trunk road. The applicant has advised that turbines will be delivered to either the Port of Ayr, Rosyth or Grangemouth and will use the A77/M77 and A76 to reach the site entrance approximately 300m west of Pathhead. In relation to the aggregate requirement of the development, the applicant advises that it will be sourced from quarries in the local area such as Hillhouse Quarry in Troon and Craigiehill Quarry in Kilmarnock. Transport Scotland and the Ayrshire Roads Alliance have raised no objections to the development with respect to impacts on the road network. Notwithstanding this it is considered that a Traffic Management Plan required through planning

condition would ensure that control over construction related traffic can be retained to ensure that any potential impacts are minimised.

131. Through ENV1 of the Structure Plan, the quality of Ayrshire's landscape and its distinctive local characteristics shall be maintained and enhanced. In providing for new development, particular care will be taken to conserve those features that contribute to local distinctiveness including, or particular relevance to this application:
- (a) settings of communities and buildings within the landscape;
 - (e) skylines and hill features, including prominent views

The proposed development will have a significant adverse impact on the setting of New Cumnock in particular. As noted above, the turbines are out of scale with the receiving landscape, an effect very noticeable from New Cumnock due to their proximity and because the turbines project above the low relief landscape north of the town which forms part of the setting of the town. The turbines are read next to a number of scale references including dwellings/farms, trees, pylons and other similar features and would compare unfavourably, being significantly larger and also moving. The outlook from parts of New Cumnock is towards the site and the intrusion of large scale wind turbines affects these prominent views.

The setting and appearance of the High Polquheys property is explained in some detail above. It is considered that this property receives unacceptable overbearing effects but as part of this the setting of the dwelling in its immediate context is adversely affected. This is as a result of the very large scale turbines located on elevated ground effectively dominating the setting of the house and its immediate environs which are located in the lower lying 'bowl'.

132. Through Policy ENV6, development proposals considered to have an adverse effect on specified heritage resources shall not conform to the structure plan:
- (a) listed buildings of architectural and historic interest;
 - (b) designated conservation areas;
 - (c) historic gardens and designed landscapes; and
 - (d) archaeological locations and landscapes

As stated in relation to ECON 7(e)(historic environment) there are not considered to be any unacceptable direct or indirect adverse impacts on heritage resources.

Adopted East Ayrshire Local Plan

133. Policy SD1 states that the Council will adhere to the principles of sustainability in its consideration of all development proposals and will seek to ensure that all new development contributes positively to the environmental quality of the area. In this regard, the Council will ensure that all new development does not have any unacceptable adverse impact on:
134. The character and appearance of the particular location in which it is proposed.

It is considered that the proposal will result in a significant change in the character and appearance of the area in which it is proposed as well as the surrounding area from where it is viewed. It is accepted that wind farms, by their very nature, are prominent features in the landscape and will offer a degree of visual intrusion which will inevitably effect the character and appearance of the local area. In this case it is considered that the impact on the landscape and visual receptors including settlements, rural properties, transport routes and recreational locations are significantly adverse. This is a result of the proximity of the development to the receptors, the size of the turbines and their scale in relation to the host and surrounding landscapes and the widespread local visibility that results.

135. The environment and amenity of local communities and residents of the area;

As noted above, it is considered that two residential properties would receive overbearing type effects from this development. This is very much focused on the visual impact received by these properties but it is also acknowledged that there are effects from noise and from shadow flicker (unless a condition is used to control this) in addition to the visual aspect. The Watsonburn property is controlled by a site landowner and would be vacated prior to operation which would resolve the issues of this property subject to conditions securing this and the upkeep of the property in the longer term. The High Polquheys property does not benefit from this though and would consequently suffer significant and unacceptable effects.

Turning to the wider community, significant landscape and visual effects are predicted on New Cumnock and its small outlying settlements to the south and also to a number of rural properties in the area. The size and location of the turbines ensures that they become a prominent and perhaps dominant, feature of the area.

136. Landscape character and quality;

Significant adverse effects on the character and quality of the landscape appear to extend up the 5km from the turbines according to the Council's consultants, a much greater extent than predicted by the SEI and impact on parts of the plateau moorland, upland basin and two separate upper river valley LCT's, also a greater extent than recognised by the applicant. These effects partly stem from the location of these very large turbines within a narrower band of the plateau moorland LCT rather than the more expansive interior and its resulting proximity to more sensitive LCT's such as the upland basin and upper river valleys. Whilst plateau moorland is often considered to be less sensitive to large scale turbines, this development is located nearer to the edge of the LCT where sensitivities are often higher, particularly so where that edge is meeting more settled and smaller scale LCT's. The turbines are seen in relation to a number of scale references and there is a disparity between the height of the turbines and the landform on which they are located, as noted by SNH. These effects suggest that the turbines exceed the capacity of the landscape with resulting significant adverse effects on its character and quality.

137. Natural or built heritage resources.

An assessment of impacts on the natural and built heritage resources is provided under policy ECON 7 above.

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

139. on any recognised statutory or non statutory sites of nature conservation interest;

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

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

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

143. on existing infrastructure

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

Policy CS12 provides a general support for renewable energy proposals provided that it does not have unacceptable significant adverse impact on a number of different criteria. As noted elsewhere, it is considered that there are significant adverse impacts on local communities, on the visual amenity of the area and the landscape setting for the development.

145. Policy CS14 advises that the Council will assess all applications for wind farm developments, including extensions to existing, consented and/or operational wind farms, against the provisions of Policy ECON 7 of the approved Ayrshire Joint Structure Plan: Growing a Sustainable Ayrshire and any future supplementary planning guidance to be prepared relating to cumulative impact. Policy ECON7 states:

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

- (b) Areas designated for their national or international heritage value, and green belts, will be afforded significant protection from large scale wind farms.
- (c) The integrity of national and international designations should not be compromised.
- (d) Cumulative impact will be assessed in all relevant cases, taking into account existing wind farms, those which have permission and those that are the subject of valid but undetermined applications. The weight to be afforded to undetermined applications will reflect their position in the application process. Where the limit of acceptable cumulative impact has been reached, the area will be afforded significant protection.
- (e) Outside areas of Search all wind farm proposals will be assessed against the following constraints, any positive or adverse effects on them and how the latter can be overcome or minimised:
 - (i) Historic environment;
 - (ii) Areas designated for their regional and local natural heritage value;
 - (iii) Tourism and recreational interests;
 - (iv) Communities;
 - (v) Buffer zones;
 - (vi) Aviation and defence interests;
 - (vii) Broadcasting installations.
- (f) Proposals affecting Sensitive Landscape Character Areas shall satisfactorily address any impacts on the particular interests that the designation is intended to protect but the designation shall not unreasonably restrict the overall ability of the plan area to contribute to national targets;
- (g) In all cases, applications for wind farms should be assessed in relation to criteria including, as appropriate, grid capacity, impacts on the landscape and historic environment, ecology (including birds), biodiversity and nature conservation, the water environment, communities, aviation, telecommunications, noise and shadow flicker.

146. Note (i):

147. In order to assist in the assessment process, the Rural Area Proposals Map defines an Area of Search for large scale wind farm development. This defines the boundaries of the Area of Search indicated in the structure plan Key Diagram and referred to in parts A and E of Policy ECON7.

148. Note (ii):

149. In order to help developers minimise the environmental and visual impact of their wind farm proposals, the Council intends, in conjunction with North and South Ayrshire Councils, to prepare detailed supplementary guidance pertaining to the cumulative impacts of wind farm developments. The supplementary guidance to be prepared will be

adopted by the Council, following discussion and engagement as a material consideration in the assessment of all new wind farm proposals and developers will be expected to pay due regard to the provisions of the guidance in the formulation of their proposed developments.

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

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

The applicant has advised that instead of paying the contribution under this policy they will capitalise the financial contribution and pay this money towards restoration of the SCM's. This means that the development is contrary to this policy. More detail of this is provided at the material considerations section below. They have advised that should the Council prefer that the money not be directed towards SCM restoration they would be content to pay contributions in line with this policy.

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

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

152. Through Policy T3 the Council will require developers, in formulating their development proposals to meet all of the requisite standards of the Council as Roads Authority. Developments which do not meet these standards will not be considered acceptable and will not receive Council support. Of particular relevance to this application developers should ensure that their proposed developments (iii) incorporate all necessary measures to minimise pedestrian and vehicular conflict.

Details of the proposed access and transport arrangements and the comments and position of the ARA have been set out above. Subject to appropriate planning conditions the proposals meet the requisite standards of the ARA (and Transport Scotland who are the organisation responsible for Trunk Roads).

153. Policy T9 notes that the Council will not be supportive of any developments which disrupt or adversely impact on any existing or potential rights of way, bridle paths or footpaths used by the general public for recreational or other purposes, particularly where the route concerned forms, or has the potential to form, part of the network of circular routes or footpath links between settlements, actively promoted by the Council.
154. Where such disruption or adverse impact is demonstrated to be unavoidable, the Council will require developers, as an integral part of the proposed development, to provide for the appropriate diversion of the route in question elsewhere within the development site or to put into place appropriate measures to mitigate and overcome the adverse impact experienced.

There are no core paths or public rights of way directly affected by this development. There is off site visual impact on a number of local paths however this does not physically restrict the use of those routes.

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

A detailed position on the relevant built heritage resource is set out above. As noted, it is considered that there will be no unacceptable adverse effects on built heritage resources including their setting.

156. Through policy ENV 2 the Council will seek to protect, preserve and enhance all natural heritage resources requiring conservation including Special Protection Areas, Special Areas for Conservation, Sites of Special Scientific Interest, Confirmed or Provisional Wildlife Sites and Local Nature Reserves.

As noted above in relation to Policy ECON 7 of the AJSP, the proposal has the potential to adversely affect natural heritage resources including the nearby SPA and SSSI. A detailed Appropriate Assessment is included as an appendix to this report and it is concluded that the development will not adversely affect the integrity of the SPA.

157. Policy ENV6 advises that Scheduled Ancient Monuments and other identified nationally important archaeological resources shall be preserved in situ and within an appropriate setting. Developments which have an adverse effect on Scheduled Monuments or the integrity of their settings shall not be permitted unless there are exceptional circumstances.
158. Other archaeological resources shall be preserved in situ wherever feasible. The Council will weigh the significance of any impacts on archaeological resources and their settings against other merits of the development proposals in the determination of planning applications.
159. The developer may be required to supply a report of an archaeological evaluation prior to the determination of the planning application. Where the case for preservation does

not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication in advance of development.

As noted above, the proposal does not adversely affect any feature of built heritage. There are no Scheduled Monuments or other identified nationally important archaeological resources on site and the settings of such features off site are barely affected, if at all. Due to the degree of on site disturbance from the SCM activity in the areas where development is proposed it is highly unlikely that features of archaeological interest remain.

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

There is little or no visibility of this development from any Garden and Designed Landscape in the area and it has a negligible impact on the setting or character of such features.

161. 6.20 Policy ENV13 lists four criteria where the protection and enhancement of areas of nature conservation interest within the Local Plan area will be achieved. Three of these are relevant to this proposal:

162. development likely to have a significant effect on a Natura 2000 site will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where:

163. there are no alternative solutions; and

164. there are imperative reasons of overriding public interest. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission, via Scottish Ministers.

- (ii) development that affects a Site of Special Scientific Interest will only be permitted where an appraisal has demonstrated:

- the objectives of the designated area and the overall integrity of the area would not be compromised; or
- any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance.

- (iii) development likely to adversely affect local nature reserves and provisional wildlife sites and Regionally Important Geological and Geomorphological Sites (RIGS) (see Appendix 2) will be resisted and all sites of recognised nature conservation value will be safeguarded whenever possible. Where development is approved for such sites, the developer will be required to carry out appropriate measures to conserve and manage, as far as possible, the biological or geological interest of the areas concerned and to provide for replacement habitats or features where damage is unavoidable;

The Muirkirk and North Lowther Uplands SPA is a Natura 2000 site and is in proximity to the application site. As highlighted by the Appropriate Assessment at Appendix 1, this development is not considered to have an adverse affect on the integrity of the SPA. On this basis the remainder of part (i) of the condition does not apply. Given the close relationship of the Muirkirk Uplands SSSI with the SPA, the finding within the Appropriate Assessment is considered to demonstrate that there will be no adverse affect on the integrity of the SSSI. Turning now to part (iii), the application site overlaps with the Muirkirk South Provisional Wildlife Site including the area where turbines are to be located. The ES has not specifically addressed this local designation however a full assessment of the impacts of the development on natural heritage has been undertaken including the habitats on site and nearby. The findings of this indicate that no unacceptable impact would occur as a result of the development. Noting that the PWS geographically overlaps with, and has a similar designation to the SPA/SSSI, and the position of SNH it is considered that the development will not cause unacceptable impact on the Provisional Wildlife Site.

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

166. existing setting of settlements and buildings within the landscape;

It has previously been noted above that the setting and appearance of local rural properties and of New Cumnock and the smaller B741 settlements would be significantly affected by the development. Such affects are considered to be unacceptable.

167. existing Public Rights of Way, footpaths and bridleways;

Whilst there are no direct effects on such features from this development there will be indirect , visual impacts on local routes.

168. existing skylines, landform and contours.

Windfarm developments often occupy, to some degree, a skyline location. In this case and as demonstrated by the supporting graphics, the skyline will be affected from a number of locations. Most prominent amongst these is the impact on the

skyline as seen from New Cumnock where the turbines are the most prominent and intrusive feature, completely out of scale with the low ridgeline and contrasting sharply with the existing scale references. This is aptly demonstrated by VP 7 within the SEI.

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

As set out elsewhere in this report, there is unacceptable visual intrusion from this development and the landscape character of the area will be significantly adversely affected.

170. Policy ENV17 relates to land within the rural area that has not been identified as specific development opportunity sites. It lists six requirements, the most relevant of which are considered to be whether the proposal would have significant unacceptable adverse impacts on (ii) built heritage (iii) natural heritage (iv) visual, landscape and scenic quality and (v) water resources. There will be a general presumption against development which would cause such impacts.

Detailed responses on these matters have been provided above.

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

The A76 is a designated trunk road and strategic access route for East Ayrshire. The application site takes access from the A76 to the west of New Cumnock and the turbines in particular will be an obvious visible presence on stretches of the A76, notably so where the turbines are closer to the road and are not screened by landform. Primarily the most significant visual effects occur from the west of New Cumnock near the site access until approximately the border with Dumfries and Galloway. Outwith this area the turbines may be visible but are unlikely to be a significant visual intrusion.

The policy is a generic one, aimed at different types of development. Due to the nature of wind farm developments it is not possible to screen or landscape the turbines such that adverse visual impact can be minimised. Whilst the A76 as a totality will not be unacceptably adversely affected, the short stretch around New Cumnock that is affected receives similar impacts to those which fall on other receptors in this area.

172. Policy ENV24 advises that the Council will presume against any developments which:

173. have an adverse effect on the water environment by increasing levels of pollution or detrimentally impact upon water quality, aquatic habitats for wildlife or recreational amenity; and
174. have an adverse effect on groundwater or major aquifers.
- (a) The Council supports the source control and passive treatment measures recommended by the Scottish Environment Protection Agency in its 'Guide to Sustainable Urban Drainage' and will support new developments with innovative methods of surface water disposal and treatment which meet the standards of SEPA and the Water Authority.
175. Where necessary, the Council shall require applicants to submit supplementary drainage information to assist in the determination of planning applications.

There are current water environment pollution issues associated with the unrestored SCM activities. This is related to Acid Rock Drainage seepage associated with acidic mine drainage from the former SCM activities. The Grievehill SCM is subject to a Controlled Activity Licence (CAR) (from SEPA) that will require to transfer to the applicant should consent be granted. The purpose of this is to ensure that the discharge of potentially polluting surface water is managed under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). SEPA have advised that they have no objections to the development subject to planning conditions relating to the CAR license and the requirement to provide a Construction Environmental Management Plan detailing how surface water will be controlled.

ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

176. The principal material considerations relevant to the appraisal of the application are National Planning Framework 3, Scottish Planning Policy, the East Ayrshire Local Development Plan: Proposed Plan, National and Scottish Government Energy Policy, the applicants financial offering towards restoration of SCM's, Scottish Government online Guidance for Onshore Wind Turbines, the consultation responses, the representations, the Ayrshire Joint Planning Steering Group Wind Farms: Addendum to the Ayrshire Joint Structure Plan Technical Report TR03/2006, PAN1/2011 on Noise, the Planning Authority's Noise Consultant Report (Accon Ltd), the Planning Authority's Landscape Architect Consultant Report (Ironside Farrar) and the East Ayrshire Landscape Wind Capacity Study 2013.
177. Additionally, the Council's approach to decommissioning and restoration as set out in Reports to Council dated 24 May 2013, 19 September 2013 and 28 January 2014, the Report to Cabinet on 21 May 2014 on decommissioning, restoration, aftercare and mitigation financial guarantees, the applicants financial information and the Planning Authority's decommissioning and restoration consultant's report (Ironside Farrar) are also relevant material considerations.

National Planning Framework 3 (NPF3)

178. NPF3 is a long term strategy for Scotland. It is the spatial expression of the Government Economic Strategy, and its plans for development and investment in infrastructure. As part of the transition to a low carbon economy it advises that the ambition is to achieve at least an 80% reduction in greenhouse gas emissions by 2050 and looks to achieve the generation equivalent of at least 100% of gross electricity consumption from renewables by 2020. NPF3 recognises that an energy generation mix will continue to be required.
179. Section 3.23 of NPF3 advises that onshore wind will continue to make a significant contribution to diversification of energy supplies. It notes that windfarms should not be located in national parks or national scenic areas. It advises that the required spatial framework will be set out in SPP to guide new energy developments to appropriate locations, taking into account important features.
180. Whilst NPF 3 offers a general support for on shore wind as part of Scotland's energy mix, it does note that there are areas where developments are unacceptable and, through the SPP spatial strategy, areas where they may be appropriate but 'taking into account important features'. As such it is clear that NPF 3 does not offer unequivocal support to onshore wind proposals but rather it requires that full consideration of all developments against appropriate criteria takes place.
181. NPF 3 also notes that there is a continuing need to actively address the impacts of past uses of the land, including minerals extraction, through restoration and enhancement. The document notes that there is a legacy of open cast coal sites requiring intervention to ensure that they are properly restored.
182. In this respect the development is not considered to be an appropriate location as it does not reflect the scale and character of the landscape and results in significant adverse landscape and visual impacts.
183. Consequently the proposal, on balance, is inconsistent with the provisions of NPF 3.

Scottish Planning Policy (SPP)

184. SPP sets out national planning policies which reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. It is a statement of Scottish Government policy on how national land use planning matters should be addressed across the country.
185. SPP introduces a presumption in favour of development that contributes to sustainable development and advises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. At part 29 it lists thirteen principles that should guide policies and decisions towards this aim.

186. In decision making SPP advises that the presumption in favour of development that contributes to sustainable development is a material consideration. Where a development plan is more than five years old, a policy in an otherwise up to date development plan is out of date or the plan does not contain policies relevant to the proposal, the presumption in favour of development that contributes to sustainable development is a significant material consideration. Decision makers are also required to take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies of SPP.
187. At part 154, SPP advises that the planning system should support the transformational change to a low carbon economy, consistent with national objectives and targets. It should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity and should guide development to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.
188. Regarding onshore wind SPP advises that Planning Authorities should set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities. The SPP includes a spatial framework made up of three ‘groups’ of areas. Group 1 relates to National Parks and National Scenic Areas where wind farms will not be acceptable. Group 2 relates to areas of significant protection and includes designations and interests where wind farms may be appropriate in some circumstances and consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation. Such designations include, amongst others, SSSI’s, Gardens and Designed Landscapes, areas of wild land and separation of up to 2km from cities, towns and villages with the extent of the separation determined by the planning authority based on landform and other features which restrict views out of the settlement. In group 3 areas wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.
189. Part 163 advises that the spatial framework approach should be followed in order to deliver consistency nationally and additional constraints should not be applied at this stage. The spatial framework is complemented by a more detailed and exacting development management process where the merits of an individual proposal will be carefully considered against the full range of environmental, community, and cumulative impacts. It notes that individual properties and settlements not identified in development plans will be protected through local development plan policy (part 164).
190. Part 169 sets out the likely considerations that should be taken into account in the determination of wind farm proposals. These include a large number of issues but particularly relevant to this proposal are net economic impact, the scale of contribution to renewable energy generation targets, effect on greenhouse gas emissions, cumulative impacts, impacts on communities and individual dwellings including visual impact, residential amenity, noise and shadow flicker, landscape and visual impacts, effects on the natural heritage, impacts on the historic environment, impacts on tourism and recreation, impacts on aviation, effects on hydrology and the water environment, the need for conditions relating to the decommissioning of developments, including

ancillary infrastructure, and site restoration and the need for a robust planning obligation to ensure that operators achieve site restoration.

191. Part 170 notes that areas identified for windfarms should be suitable for use in perpetuity noting that consents may be time limited but wind farms should nevertheless be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities. Finally, part 173 on community benefit advises that where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit in line with the *Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments* document.
192. The Council's Development Plan comprising the Structure Plan (2007) and Local Plan (2010) is more than five years old. Whilst the Local Plan in particular is considered to have policies that largely remain consistent with SPP, the Development Plan is technically out of date. Despite this the statutory provision set out in Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) is retained in that development must be in accordance with the Plan, unless material considerations indicate otherwise.
193. Due to the age of the Development Plan and as set out at part 33 of SPP, the presumption in favour of development that contributes to sustainable development is a significant material consideration. To ascertain whether this development contributes to sustainable development one must examine the thirteen criteria listed at part 29 of SPP. The specific criteria and consideration of the development against each are as follows:

- 1 Giving due weight to net economic benefit;

The applicant has not undertaken a specific assessment to determine the net economic benefit of this development however the ES and SEI does set out a number of key economic benefits of the development as part of the socio-economic impact assessment. The ES/SEI notes that there are no adverse economic impacts predicted. It highlights that in terms of full time equivalent (FTE) jobs (from converting temporary employment figures into full time equivalent) the construction phase directly and indirectly creates 3.5 FTE jobs, the operational phase 3 to 5.5 jobs and the decommissioning phase 1.5 jobs. This totals 8-10.5 FTE jobs. These figures do not reflect the location of such jobs therefore whilst there are opportunities for local contracts which support and/or create jobs, there is no guarantee that such benefit accrues locally. The ES/SEI notes the contribution made towards business rates as being of minor/negligible beneficial impact. Finally, the applicant's proposal to provide a financial contribution towards restoration of surface coal mines contributes favourably towards the net economic benefit of the development. This must be tempered however by the various caveats placed on such a contribution. On balance it is considered that the development is likely to deliver net economic benefit although it is difficult to determine how much of this benefit is likely to accrue locally. Should the financial contribution towards SCM restoration be delivered in practice the net economic benefit of the development would be more substantial.

- 2 Responding to economic issues, challenges and opportunities, as outlined in local economic strategies;

The East Ayrshire Council Economic Development Strategy 2014/2025 sets out six strategic priorities and key actions. These include integrating East Ayrshire with the regional economy, facilitate economic restructuring, improve the vibrancy of our town centres, improve the quality of the tourism on offer, increase economic participation in our communities and to accelerate the pace of infrastructure improvements. The proposal, through its potential to support jobs in the engineering and construction sectors has the potential to positively contribute to economic restructuring and to increase the economic participation of local communities.

- 3 Supporting good design and the six qualities of successful places;

Amongst the six qualities it is considered that 'distinctive' and 'resource efficient' are the two most relevant. In this case it is considered that the development does not complement local landscape or skylines. The turbines appear out of scale with the receiving landscape, appearing as the most dominant local feature near to New Cumnock. The proposal is resource efficient to the extent that it utilises, to some extent, existing access tracks and compound area from the previous land use and through the generation of electricity from renewable sources it prevents resource depletion by offsetting finite fossil fuel use.

- 4 Making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;

By promoting the site for wind energy the applicant must be satisfied that the development as proposed makes efficient use of the site for the production of electricity. In so far as the wind farm does not preclude restoration works to the surface coal mine and has relatively limited land take it is considered that it makes efficient use of the capacity of the land.

- 5 Supporting delivery of accessible housing, business, retailing and leisure development;

The proposal does not fall into these categories.

- 6 Supporting delivery of infrastructure, for example transport, education, energy, digital and water;

The proposal is for the production of energy from a renewable source and with a generating capacity of up to 21.6MW it makes a modest, albeit useful contribution.

- 7 Supporting climate change mitigation and adaptation including taking account of flood risk;

The efficient supply of electricity from a renewable source is described by SPP at part 153 as being vital to reducing greenhouse gas emissions which help to reduce climate change effects.

- 8 Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;

The proposal does not offer up such opportunity due to the nature of the development.

- 9 having regard to the principles for sustainable land use set out in the Land Use Strategy;

The Land Use Strategy sets out 10 principles, a number of which are of particular interest to this proposal. This includes principle e) Landscape change should be managed positively and sympathetically, considering the implications of change at a scale appropriate to the landscape in question, given that all Scotland's landscapes are important to our sense of identity and to our individual and social wellbeing, f) Land-use decisions should be informed by an understanding of the opportunities and threats brought about by the changing climate. Greenhouse gas emissions associated with land use should be reduced and land should continue to contribute to delivering climate change adaptation and mitigation objectives and g) Where land has ceased to fulfil a useful function because it is derelict or vacant, this represents a significant loss of economic potential and amenity for the community concerned. It should be a priority to examine options for restoring all such land to economically, socially or environmentally productive uses.

As set out previously the landscape change associated with this proposal is not considered to be positive or sympathetic and would erode the local character and sense of identity. In respect of greenhouse gas emissions and climate change the benefits of the development are set out at point 7 above particularly noting however that the previous use of the land associated with coal production would be in part replaced by renewable energy production. Finally, the proposal makes use of part of an unrestored surface coal mine site and therefore the proposal brings some economically productive use to the land and could, if the restoration contribution was delivered, result in some physical restoration of the land to environmentally productive use.

- 10 protecting, enhancing and promoting access to cultural heritage, including the historic environment;

The proposal does not in itself protect, enhance or promote access to cultural heritage however it's very limited impact on such matters could be described as offering negligible adverse impact.

- 11 Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;

As set out elsewhere within this report, the proposal has a significant adverse impact on the landscape of the local area. This is primarily a result of its location within a transitional/boundary area of landscape where the turbines proposed are out of scale. This results in an uncomfortable relationship with local landscape features and adverse impact on New Cumnock and its setting within this landscape.

- 12 reducing waste, facilitating its management and promoting resource recovery; and

This element is of minimal relevance to the development.

- 13 Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

The disparity in scale between the turbines and the receiving landscape and those landscapes/areas from which it would be viewed, emphasised by numerous scale references including buildings and trees, suggests that the turbine height represents overdevelopment of this site. The potential for this to occur is highlighted by the East Ayrshire Landscape Wind Capacity Study noting that there is very limited scope for larger scale typology turbine in this landscape but that turbines should be sited well back from the more sensitive outer edges of this landscape to avoid significant impact on smaller scale lower slopes and valleys within this character type and also the adjacent landscapes.

- 194 Taking each of these elements together and noting the particularly adverse landscape effects, the proposal does not demonstrate that it can be described as development that contributes to sustainable development. Whilst the presumption remains a material consideration it should not be afforded any significant degree of weight.
- 195 The provision of a spatial framework for wind farm development provides clearer guidance on areas where windfarm development may or may not be acceptable. The group 1 areas are not applicable to East Ayrshire however the areas of significant protection set out within group 2 will be relevant in some cases. The considerations laid out at part 169 of SPP are relevant to groups 2 and 3.
- 196 Using the Local Development Plan spatial framework map the proposal falls within a Group 2 area. This is for two reasons, the first being that part of the access road is within 2km of a settlement although given that the 2km separation is advocated on visual grounds in SPP and that it is the turbines that generate the visual impact it is considered that this element is primarily a technicality. The second element relates to carbon rich soils. The mapping is based on desktop survey therefore it takes no account of the fact that in practice the site has been subject to considerable disturbance from the surface coal mine use. From the information in the Environmental Statement it would appear that actual impacts on carbon rich soils from this development are relatively minimal. On this basis the development satisfies the requirements for Group 2 windfarms.

- 197 The development primarily falls to be assessed against the specific development management criteria of paragraph 169. As set out in some detail above using the development plan policies (as many of these considerations are also listed in paragraph 169) the proposal results in a significant and unacceptable adverse impact on a number of the considerations set out in SPP including: landscape and visual impacts, impacts on communities and individual dwellings, impacts on recreation features and aviation impacts. The contribution of the development towards renewable energy targets, its positive effect on greenhouse gas emissions and its socio economic benefits are particularly noted however they are not considered to outweigh the significant harm associated with this proposal.
- 198 In conclusion and on the basis of the detail set out above it is considered that the proposal does not draw strong support from the presumption in favour of development that contributes to sustainable development and that element, as a material consideration, should be afforded limited weight. Furthermore, the proposal demonstrates unacceptable impacts on a number of different criteria listed at paragraph 169 and the benefits of the development do not outweigh these impacts. On the basis of this position it is considered that the development does not demonstrate that it complies with Scottish Planning Policy.

The East Ayrshire Local Development Plan: Proposed Plan

- 199 All developments must meet with the provisions of Overarching Policy OP1 which states that all development proposals will require to:
- (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;
 - (ii) Be fully compatible with surrounding established uses and have a positive impact on the environmental quality of the area;
 - (iii) Ensure that the size, scale, layout, and design enhances the character and amenity of the area and creates a clear sense of place;
 - (iv) Where possible, reuse vacant previously developed land in preference to greenfield land;
 - (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;
 - (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;
 - (vii) Be compatible with, and where possible implement, projects shown on the LDP placemaking maps;

- (viii) Ensure that there is no unacceptable loss of safeguarded areas of open space/green infrastructure and prime quality agricultural land;
- (ix) Protect and enhance natural and built heritage designations and link to and integrate with green infrastructure where possible;
- (x) Ensure that there are no detrimental impacts on the landscape character or tourism offer of the area;
- (xi) Meet with the requirements of all relevant service providers and the Ayrshire Roads Alliance; and
- (xii) Be accessible to all.

200 ***It is considered that this proposal is not compliant with (i), (ii), (iii) and (x) due to the impact of the development on the landscape and the environmental quality of the area, its impact on established nearby residential uses and the fact that it does not comply with all PLDP policies. The reasons for the proposal not meeting with these criteria are contained within the AJSP and EALP policies above.***

201 Policy RE1: Renewable Energy Developments states that proposals for the generation and utilisation of renewable energy in the form of new build development, infrastructure or retrofit projects will be supported in standalone locations and as integral parts of new and existing developments where it can be demonstrated that there will be no unacceptable significant adverse impacts on all of the relevant Renewable Energy Assessment Criteria set out in Schedule 1 of the LDP, that the scale of the proposal and its relationship with the surrounding area are appropriate and that all other relevant LDP policies are met. In this regard, applications for renewable energy proposals should be accompanied by detailed supporting information.

There are a number of criteria set out within Schedule 1 and these closely, although not completely, reflect the criteria set out in paragraph 169 of SPP. As set out above the proposal is not considered to have demonstrated that there will be no unacceptable adverse impacts on landscape and visual impact, impacts on communities and individual dwellings, impacts on recreation, impacts on aviation interests and the appropriate siting and design of turbines.

202 Policy RE3 states that 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.

203 The Council will afford significant protection to Group 2 areas shown on Map 12. Such development will only be permitted within these Areas of Significant Protection in cases where it can be demonstrated that any significant effects on the qualities 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.

- 204 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.

The application site is partly located within Group 2 due to the presence of mapped carbon rich soils. As noted elsewhere in this report this is not considered to be an issue at this site due to the severe disturbance from the previous site use whereby this proposal benefits from being sited within the area. Notwithstanding this, the proposal is not acceptable against all of the criteria of Schedule 1 as noted against RE1 and elsewhere in this report. The proposal is not therefore considered to comply with policy RE3.

- 205 Policy RE4 states that the cumulative impact of wind energy proposals must be considered in the assessment of all wind energy proposals. Within the southern part of East Ayrshire, the Council will closely monitor the impact of proposals moving through the planning and Section 36 energy consents processes and will, if necessary, update supplementary guidance when it is considered that the capacity of the landscape in the southern area (or any other areas of East Ayrshire) to absorb further development, without resulting in unacceptable detriment to the quality of the area, has been reached.

As is stated under policy ECON 7 (D) of the AJSP, in combination with the currently operational and consented schemes the development has no unacceptable significant cumulative landscape and visual effects. However were all or indeed certain proposed schemes to be consented this would result in the development having potentially unacceptable cumulative impacts, as set out elsewhere in the report.

The Council does not advocate that the limit of acceptable cumulative impact has been reached in this area, evidenced in the LDP (Map 13, page 81) which has not sought to specifically safeguard this area from wind energy development for cumulative impact reasons.

It is therefore considered that in terms of the current existing and consented cumulative baseline the landscape and visual impacts of this proposal would not be contrary to Policy RE4.

- 206 Policy RE5 deals with wind energy and the landscape and states that landscape impacts are included within Schedule 1, as a policy criterion that must be considered in the assessment of all wind energy proposals. To assist in the detailed consideration of this criterion and to help inform wind energy applications, maps 14 and 15 have been prepared, making use of the East Ayrshire Landscape Wind Capacity Study, to illustrate the landscape sensitivities to wind turbines over 70 metres and between 50 and 70 metres respectively.

- 207 The landscape sensitivity maps and the associated detailed guidance within the landscape study will be used by the Council to assess all relevant wind energy applications, alongside all other policy criteria.

On Map 14 of Volume 1 of the PLDP, this site falls within an area identified as having high-medium sensitivity to wind energy development of 70 metres in

height or more. This is further expanded upon in the East Ayrshire Landscape Wind Capacity Study 2013 below noting in particular that it has been found that the development does not comply with this Guidance. The proposal does not therefore comply with the provisions of policy RE5.

- 208 Policy RE7 states that where a wind turbine is not in operation producing electricity for a continuous period of 6 months, the operator will be required to provide evidence to the Council that the apparatus is in the process of being repaired or replaced. If this is not provided, the Council will deem the turbine to be surplus to requirements and will, through an appropriate planning condition or where deemed necessary by a legal obligation, require its removal, with the land restored to its original condition within an appropriate period to be agreed with the Council.

Any consent that may be granted should be appropriately conditioned to reflect the requirements of this policy.

- 209 Policy RE8 introduces a new community benefits policy. It states that the Council will, if mindful to grant planning permission for a wind energy development, encourage applicants to provide a community benefit payment of no less than £5,000 per mw of installed capacity per annum, payable from the date on which the first turbine is fully erect.

Applicants will be requested to provide the community benefit in two ways:

(i) A minimum contribution of £2,500 per megawatt of installed capacity per annum should be made to the Council managed Renewable Energy Fund, which will be used by communities to finance a range of community, environmental and employability projects;

- 210 For a period of 10 years, all contributions will be directed exclusively to local projects within 10 kilometres of the boundary of the wind energy development. Thereafter, 50% of the contributions received will be directed towards local projects with 50% being reserved for use in the wider East Ayrshire area.

(ii) A minimum of £2,500 per megawatt of installed capacity per annum should be paid direct to the affected communities, through an appropriate Community Fund specifically established to manage the funds received from the wind energy development.

The applicant has not offered community benefit payment as set out by this policy. However they remain committed to offering the community the option to purchase a stake in the windfarm although should the community not wish to take up this offer they would revert to a traditional payment of £2,500 per MW to the REF. Notwithstanding this, the policy is not mandatory and community benefit itself is not a material consideration and as such not meeting with this policy should not weigh against the proposals.

- 211 Policy RE9 states that all new wind energy, waste management, landfill and electrical infrastructure proposals will require to provide an appropriate financial guarantee, acceptable to the Council, supported with payments for the cost of compliance

monitoring, to ensure that all decommissioning, restoration, aftercare and mitigation requirements attached to planning consents can be met in full.

212 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.

213 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.

The applicant has agreed in principle to the provision of a financial guarantee to address these matters. With respect to the provision of payment to address the cost of compliance monitoring the applicant has advised that they would be willing to meet the reasonable costs occurred during the construction phase until date of final commissioning.

It should be ensured, through a Section 75 obligation that a robust financial guarantee is in place before any development commences and that it is monitored regularly as per policy RE9. Further detail of this has been set out in the Council's submission on planning conditions and legal agreements.

214 Policy RE10 covers compliance monitoring and states that in respect of wind energy, landfill and electrical infrastructure proposals, in order to ensure that planning consents and/or Section 75 obligations are being fully complied with, developers will be required to provide financial contributions to cover the full cost of external consultants employed by the Council to undertake a Compliance Monitoring role.

The applicant has indicated that they are willing to address the cost of planning monitoring during the construction phase of the windfarm until final site commissioning. They expect the detailed scope of the PMO role to be agreed with the Council in advance of work being undertaken and that the agreement in principle is developed further through legal agreement.

If planning committee is minded to grant consent the provision of PMO should be secured by a section 75 legal agreement. Ideally this would take place, as a minimum, from the submission of pre commencement conditions through commencement of construction works until post construction restoration works are complete. The applicants agreement to this matter suggests that the pre commencement condition phase conditions do form part of the 'construction phase' although it is noted that no post construction restoration is catered for. Additionally no mention is made by the applicant on decommissioning phase monitoring. It is suggested that if committee is minded to grant consent that these additional elements be included within the role and requirement of the PMO function.

215 Policy ENV6 notes that the importance of nature conservation and biodiversity will be fully recognised in the assessment of development proposals. This will be achieved by ensuring that:

- (i) Any development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management must be subject to a “Habitats Regulations Appraisal”. Such development will only be approved if the appraisal shows that there will be no adverse effect on the integrity of the site;
- (ii) Any development affecting a SSSI will only be permitted where it will not adversely affect the integrity of the area or the qualities for which it has been designated or where any significant adverse effects on the qualities for which it is designated are clearly outweighed by social, environmental or economic benefits of national importance.
- (iii) Any development that may adversely impact on areas of local importance for nature conservation, including provisional wildlife sites, local geodiversity sites and local nature reserves, will be expected to demonstrate how any impact can be avoided or mitigated.
- (iv) If there is evidence that protected species may be affected by a development, steps must be taken to establish their presence. The planning and design of any development which has the potential to impact on a protected species will require to take into account the level of protection afforded by legislation and any impacts must be fully considered prior to the submission of any planning application.
- (v) Any new development must protect, and where appropriate incorporate and/or extend, existing habitat networks, helping to further develop the Central Scotland Green Network in Ayrshire.

The Council will apply ‘the precautionary principle’ where the impacts of a proposed development on nationally or internationally significant natural heritage resources are uncertain but there is sound evidence indicating that significant irreversible damage could occur.

The Council is content that the development offers no unacceptable impacts on the natural environment or biodiversity as set out in this policy, subject to appropriate planning conditions should consent be granted. An ‘appropriate assessment’ under the Habitats Regulations is set out at Appendix 1 which shows that there is no adverse effect on site integrity.

216 Policy ENV8: Protecting and Enhancing the Landscape states that the protection and enhancement of East Ayrshire’s landscape character as identified in the Ayrshire Landscape Character Assessment will be a key consideration in assessing the appropriateness of development proposals in the rural area. The Council will require that:

(i) Development proposals are sited and designed to respect the nature and landscape character of the area and to minimise visual impact. Particular attention will be paid to size, scale, layout, materials, design, finish and colour.

(ii) Where visual impacts are unavoidable, development proposals include adequate mitigation measures to minimise such impacts on the landscape.

(iii) Particular features that contribute to the value, quality and character of the landscape are conserved and enhanced. Development that would result in the loss of valuable landscape features, to such an extent that character and value of the landscape, is diminished, will not be supported. Such landscape features include:

- a. Settings of settlements and buildings within the landscape;
- b. Skylines, distinctive landform features, landmark hills and prominent views;
- c. Woodlands, hedgerows and trees;
- d. Field patterns and means of enclosure, including dry stone dykes; and
- e. Rights of way and footpaths

217 Development that would create unacceptable visual intrusion or irreparable damage to landscape character will not be supported by the Council.

For the reasons set out under AJSP and EALP above, it is considered that the development would create unacceptable visual intrusion and damage to the landscape character of the area which includes significant numbers of receptors. Given that SPP at paragraph 170 advises that windfarm sites should be suitable for use in perpetuity such impacts on the area and receptors will be permanent.

218 Policy ENV10: Carbon rich soils states that in recognition of the role of carbon rich peatland soils as valuable carbon stores or ‘sinks’, there will be a presumption against development that would result in the destruction of peatland considered to be of significant value, both ecologically and in terms of carbon management. The Council will support and promote the restoration of peatland habitats, where there is potential for such habitats to become active carbon stores and help to reduce net carbon emissions.

219 Development may be permitted for renewable energy generating developments in shallow peat areas where it can be demonstrated (in accordance with the Scottish Government’s ‘carbon calculator’ or other equivalent evidence) that the balance of advantage in terms of climate change mitigation lies with the energy generation proposal

The proposal is located within a Group 2 area primarily due to the mapped presence of carbon rich soil/peat. However as already noted the previous site use has largely resulted in such interests being lost or substantially altered. The development therefore offers relatively minimal impact on such interests and given the contribution towards climate change mitigation offered by the development the balance of advantage lies with the development. The development therefore complies with this policy.

220 Policy ENV12: Water, air and light and noise pollution gives direction on a number of matters including:

- 221 Water: In line with the Water Framework Directive, the Council will give priority to maintaining and improving the quality of all water bodies and ground water. There will be a presumption against any development that will have an adverse impact on the water environment in terms of pollution levels and the ecological value of water habitats. Where developments are proposed on or close to existing water bodies, design solutions should explore how best to maintain their water quality and, where possible improve the water bodies through maintaining them as wildlife corridors where biodiversity can be improved. The Council will not be supportive of developments which will, or which have the potential to, cause significant adverse impacts on water bodies as a result of morphological changes to water bodies such as engineering activities in the form of culverts or changes to the banks or bed.
- 222 Air: All developers will be required to ensure that their proposals have minimal adverse impact on air quality. Air quality assessments will be required for any proposed development which the Council considers may significantly impact upon air quality, either on its own or cumulatively. Development that will have a significant adverse impact on air quality will not be supported.
- 223 Light: All development proposals must incorporate design measures which minimise or reduce light pollution. Developers will require to demonstrate that consideration has been given to reducing light pollution, by minimising unnecessary lighting and using the most appropriate forms of lighting to carry out specific tasks. Within the Dark Sky Park and surrounding area, particular priority is given to minimising light pollution, to maintain the integrity of the designation.
- 224 Noise: All new development must take full account of any Noise Action Plan and Noise Management Areas that are in operation in the area and ensure that significant adverse noise impacts on surrounding properties and uses are avoided. A noise impact assessment may be required in this regard and noise mitigation measures may be required through planning conditions and/or Section 75 Obligations.

The proposal has not attracted an objection from SEPA or Scottish Water in relation to the water environment, subject to planning conditions. The environmental information indicates that there are no significant effects on hydrological and hydrogeological resource as a result of the wind farm. Additionally there is no anticipated significant effect on air quality and impacts from light would also not be significant with most impact associated with the construction and decommissioning period. The Council's noise consultant has advised that subject to the adoption of their suggested limits there would be no unacceptable noise impact at sensitive receptors.

National and Scottish Government Energy Policy

- 225 The Energy White Paper 2007 committed the UK Government to the delivery of a low carbon economy. Subsequent legislation and policies have sought to increase the proportion of energy that is derived from renewable sources and to reduce emissions of greenhouse gases. These measures are in response to legally binding European targets that require 15% of the UK's energy to be derived from renewable sources by 2020 and for there to be a 16% reduction in greenhouse gas emissions by the same

deadline. In June 2015 the UK Energy Secretary announced an end to public subsidy for onshore wind farms and noted that the UK is well on the way to meeting its climate change targets.

- 226 The Climate Change (Scotland) Act 2009 sets out the Scottish Government's key commitments in terms of environmental legislation which promotes reductions in greenhouse gas emissions. Part 1 of this Act creates the statutory framework for reduction of greenhouse gas emissions in Scotland by setting an interim 42% reduction target for 2020 and an 80% reduction by 2050. The Act also requires Scottish Ministers to set annual targets for Scottish emissions from 2010 to 2050.
- 227 The Scottish Government's Renewable Electricity Generation Policy Statement (REGPS) June, 2013 sets out the Scottish Government's plans for renewable energy and fossil fuel thermal generation in future energy mixes. The EGPS indicates the Scottish Government's amended target of delivering the equivalent of at least 100% of gross electricity consumption from renewable by 2020. It is confirmed that this target does not mean that Scotland will be 100% dependent on renewable generation; renewable will form part of a wider, balanced electricity mix, with thermal generation continuing to play an important role.
- 228 In response to the UK Energy Secretary, the Scottish Government Chief Planner wrote to Scottish Heads of Planning to "*re-emphasise that the Scottish Government's Scottish Planning Policy (2014) and Electricity Generation Policy Statement (2013) set out the Scottish Government's current position on on-shore wind farms and that this remains the case*" and that the target of 100% gross electricity consumption from renewables is not a cap on supporting such developments, including on shore wind, once the target has been reached. He advises that decisions should be informed by relevant development plan policies, themselves informed by Scottish Planning Policy.
- 229 The proposal can draw support from Scottish Government energy policy in particular due to its contributions towards renewable energy generation which secure and decarbonise electricity supply. Whilst UK Government energy policy of curtailment of further subsidised deployment of onshore wind appears to stymie development that does require subsidy it does not prevent the approval of applications for such developments subject of course to assessment against all relevant matters.

Scottish Government Guidance – On Shore Wind Turbines

- 230 This guidance is updated periodically by the Scottish Ministers and is an online resource that provides Planning Authorities with guidance in the consideration of proposals. It was last updated on 28 May 2014. In the period since publication spatial guidance has changed therefore elements relating to spatial planning should not be relied upon however the technical matters and typical considerations matters that the advice sets out remains largely relevant and useful.
- 231 Amongst others, this Government guidance lists criteria to be considered in the determination of planning applications for on shore turbines. In the case of this proposal the significant criteria to be assessed are; landscape and visual impact, impacts on communities, impacts on the natural environment, aviation and historic environment impacts.

- 232 In terms of landscape and visual impact it has been noted above that the development is considered to offer unacceptable significant adverse impacts. The local landscape will suffer significant effects over part of the LCT's in which the windfarm is located and others nearby. The visual effect on New Cumnock is considered to be unacceptably adverse. This matter overlaps with impacts on communities although it is noted that shadow flicker and noise impact are also of relevance for rural properties nearby to the windfarm. Impacts on the natural environment which includes impacts on species, habitats and the water environment are considered to be acceptable, subject to the ES/SEI mitigation measures and appropriate planning conditions.
- 233 Objections remain outstanding from two aviation consultees, Glasgow Prestwick Airport and NATS. Given these outstanding objections it is considered that the development does not comply with this guidance. Impact on the historic environment, archaeology and other heritage assets are minimal and as such no conflict arises with this element of the guidance.

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

- 234 All three Ayrshire Councils agreed that this Addendum will be used in the assessment of wind farm applications. It is dated 16 December 2009. The purpose of the Addendum is to support the implementation of wind energy policy as set out in the Ayrshire Joint Structure Plan. The Addendum provides developers with greater clarity regarding those areas where the principle of wind farm development is likely to be acceptable or unacceptable and to provide further explanation of the criteria against which new development will be assessed.
- 235 Given the significant changes in wind farm spatial planning policy set out within Scottish Planning Policy, much of the spatial planning advice set out in this document is now out of date. However, many of the constraints and criteria contained within this document remain relevant considerations in the assessment of wind farm developments.
- 236 Part 14 of the Addendum refers to cumulative impacts and clarifies that these will frequently involve landscape and visual impacts but may also affect natural heritage designations. In this case there are no unacceptable cumulative landscape and visual impacts resulting from existing and consented development largely due to its clear separation from these schemes and the limited extent of combined and successive visibility with other schemes. Where proposed developments are considered however the development would have the appearance of extending an arc of windfarms across the landscape and would contrast with the Lethans development, being located closer to most sensitive receptors and contrasting with the more elevated location of Lethans.
- 237 Part 18 of the Addendum indicates that establishing and maintaining visual separation from other wind farms will allow for a clear distinction to be perceived between the wind-farmed landscape and the landscape beyond. In this case the proposal does not offer unacceptable impact given that clear separation is maintained between it and the existing/consented development. This distinction is not evident however when accounting for the proposed schemes.

- 238 Part 19 advises that there will be a presumption against wind farms in locations where the cumulative impact will adversely affect Natura 2000 sites. The nearby Muirkirk and North Lowther SPA is such an area however on the basis of its own impacts and its contribution to cumulative impact it does not adversely affect the SPA.
- 239 Part 21 of the Addendum provides some clarification of policies ECON 6 and ECON 7. This development is located in a potential area of constraint but notes that this does not necessarily preclude development. At part 24 the Addendum notes that heritage resources and their settings shall be protected. As noted above, the proposal has no unacceptable adverse impact on such features.
- 240 Part 25 of the Addendum notes that landscape character, biodiversity and natural heritage are valuable resources and a key part of Ayrshire's attractive and high quality environment, contributing to sense of place and local distinctiveness and important to future well being and economic development. The planning system has to ensure that wind farm development needs are met in ways which do not erode this environmental capital. Where development compromises the objectives or overall integrity of the regional and local natural heritage and biodiversity designations, such as Sensitive Landscape Character Areas, they will not be supported. As noted above it is considered that the development does not unacceptably affect or erode the objectives and integrity of the SLCA, local biodiversity or natural heritage features.
- 241 Finally the Addendum notes at Part 30 that Glasgow Prestwick Airport offers significant international connectivity and competitive advantage for economic development. Developers will be required to show that their development does not impinge on the current operation of the airport and would not threaten the requirements for growth sought by Government. As GPA currently maintain an objection to the development the proposal does not comply with this part of the Guidance.

Noise PAN 1/2011

- 242 PAN 1/2011 provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. Site selection and the design of the development and any conditions that may be attached to any consent can all play a part in preventing, controlling and mitigating the effects of noise.
- 243 Para 29 of the PAN refers to wind turbines and indicates that "good acoustical design and siting of turbines is essential to minimise the potential to generate noise."
- 244 In this case the Planning Authority consulted with Accon Ltd to assess the submitted environmental statement noise chapter and to provide a report. This report is attached as a background paper and the findings are referred to below.

Noise Consultants - ACCON Ltd

- 245 ACCON Ltd assessed the applicant's environmental statement noise section and concluded that subject to the adoption of the proposed noise limits as identified by ACCON there would be no over-riding reason for refusal (of the windfarm) in respect of noise.

Landscape Consultants – Ironside Farrar

- 246 Ironside Farrar have been procured by the Council to undertake an assessment of the landscape and visual impact section of the applicant's submitted environmental statement.
- 247 Ironside Farrar reviewed the LVIA and Residential Visual Amenity Assessment and while broadly agreeing with the assessment of where significant effects may occur, they disagree with the conclusions drawn regarding the capacity of the landscape of the site and surrounds to accommodate a development of this scale.
- 248 The significant effects that would occur from the development result primarily from its location near lowland settled landscapes and the disparity of scale between the turbines and landscapes with which they would be seen. Significant visual effects would occur to large numbers of receptors due to the proximity of the development to New Cumnock and nearby settlements, effects not well illustrated or described in the LVIA. The visual amenity of some residential properties close to the Development may be affected to an unacceptable degree.
- 249 The windfarm design, even its revised form, would result in significant effects that strategic guidance seeks to avoid. While SNH concerns regarding the appearance of the windfarm have been addressed, concerns regarding scale and prominence in the landscape remain.
- 250 While cumulative issues with existing/ consented development are currently limited, turbines of this size in the proposed location would be a departure from the emerging pattern of wind energy development, where larger turbines are seen in upland locations and well separated from lowland landscapes. Their introduction may also preclude the introduction of more appropriately sized development nearby due to cumulative impacts resulting from disparities of turbine sizes.
- 251 Ironside Farrar concludes that the development would need to be substantially reduced in terms of turbine size to avoid exceeding the landscape capacity of the site and to reduce the extent of significant effects.

The East Ayrshire Landscape Wind Capacity Study 2013 (EALWCS)

- 252 The EALWCS is a study to inform strategic planning for wind energy development and to provide guidance on the appraisal of individual wind energy proposals. It provides a sensitivity assessment related to landscape character and visual amenity and offers guidance on the constraints and opportunities for wind energy development within the landscape character types.
- 253 According to the EALWCS the landscape character type of the majority of the application site is East Ayrshire Plateau Moorlands although part of the site access is located within the Upland Basin. The plateau moorland character type "*form an extensive undulating upland plateau of subtly rounded hills, shallow basins and some very gently graded lower slopes but also feature the higher hills of Blackside, Wardlaw,*

Cairn Table and Corsencon Hills which have steep slopes and defined ridges and summits". It notes that "*Land cover is simple, dominated by grass moorland with some coniferous forestry, although small enclosed pastures and mixed woodlands occur on the settled lower hill slopes to the south-east of Galston and within the valley of the Greenock Burn. Spoil and disturbed ground from former and current opencast workings are evident on the outer edges of the southern area of these Plateau Moorlands although the core of these uplands is little modified*".

254 The EALWCS lists potential cumulative issues and a number of potential constraints. These constraints include:

- The higher hills of Wardlaw, Corsencon, Cairn Table and Blackside which have steeper slopes and defined summits and form 'Landmark Hills' prominent in views across the densely settled lowlands of Ayrshire.
- Outer hill slopes which form immediate skylines to the more sensitive smaller scale landscapes of the Upland River Valleys (10) of the upper Ayr, Nith and Irvine and the East Ayrshire Lowlands (7c).
- The narrow and lower Avisyard Hill area which is more visually prominent due to its close proximity to settled lowlands and valleys and where tall turbines would appear out of scale with the low relief of this ridge.
- Dramatic views from the popularly accessed Cairn Table and Blackside Hills west across Ayrshire, the Firth of Clyde and to Arran.
- Disturbed ground and spoil associated with former and current open cast mining operations which create a fragmented and degraded landscape on lower hill slopes on the periphery of the southern part of this character type.

255 The EALWCS provides guidance for development noting very limited scope for the large typology turbine type in this landscape. It advises that "*turbines should be set well back from the more sensitive outer edges of this landscape to avoid significant impact on smaller scale settled lower slopes and valleys within this character type and the adjacent landscapes of the East Ayrshire Lowlands (7c), Upland Basin (15) and Upland River Valleys (10)*". It goes on to note that there is some scope for medium typology (50-70m) to be located on "*lower, gently graded outer hill slopes provided they were set back from the landmark hills and also from settlement on lower hill slopes and valleys in this and adjacent character types*".

256 In this case the proposal is for large typology turbines which are located on the outer edge of the character type with resultant impacts on the more sensitive smaller scale adjacent landscapes, a specifically noted constraint in the EALWCS.

257 The development exhibits a clear scale disparity with the surrounding landscapes and results in very significant visual impacts on a wide range and large number of receptors. In finding such impacts it would appear that the constraints and guidance given by the EALWCS have not been given significant attention in the design and location of this development. In this respect it would appear that the development is clearly not compatible with the guidance in the EALWCS.

Applicant financial offering towards Grievehill surface coal mine restoration

- 258 The applicant proposes to provide a financial contribution towards the restoration of Grievehill surface coal mine. Within the SEI and the applicants clarification letters it is described as community benefit fund/alternative community benefits offer. Community benefits are not material planning considerations as noted in Scottish Government guidance. However it is considered that the financial contribution is not strictly a community benefit as the money is not vested in the community itself but is more properly a separate financial contribution paid to the Council towards environmental restoration. The financial contribution would be towards land within the SCM but outwith the red line site. Such restoration could therefore fairly be described as being potentially beneficial to the community rather than community benefit. It is not an integral part of the development (as it isn't strictly necessary to facilitate the proposal) but it can be taken into account in the consideration of the application as a material consideration, demonstrated by court decisions in similar circumstances.
- 259 The applicant proposes to capitalise the 25 year REF contribution of £2500 per MW per year to an upfront payment of £500,000 and asks that with the agreement of the Council this be put by the Council towards restoration of the abandoned Grievehill SCM. Additionally a contribution of £1M from the wind farm joint venture of Peel Energy and Hargreaves Services would result in a 'restoration contribution' of £1.5M made available to the Council to make safe and restore the abandoned SCM. The applicant sees the redirection of the REF contribution to this purpose ensuring all contributions will directly benefit those projects in closest proximity to the wind farm. The developer proposes a s69 agreement (under the Local Government (Scotland) Act 1973) to secure the funds. In terms of the timing for the payment of the financial offering, the applicant has advised that the £1.5M payment would occur at the period of commissioning the windfarm.
- 260 There are a number of matters of note with the detail of this financial offer. Firstly, the payment is in lieu of the REF contribution and as noted above under policy CS15 of the Local Plan it is therefore contrary to that policy. It would not be acceptable to the Council to treat the £500k as an REF payment and subsequently to redirect or 'lift' that money for the purpose of SCM restoration. As such the £500k, whilst based on the equivalent REF money (as considered by the applicant) is a separate financial contribution to be treated in the same way as the additional £1M.
- 261 Secondly, the calculation for the capitalisation figure utilises a discount rate figure of 9.7% which when the 25 year period is included in the calculation results in the £500k figure (in practice £501, 689). However, the discount rate figure utilised has a significant bearing on the final figure. The Council's Finance section has advised that by using a 4% figure a total of £843,592 could be achieved. They advise that both figures could be reasonable as it is difficult to accurately forecast inflation/interest rates over a 25 year period. Whilst this point is worthy of note in placing the 'value' of the £500k into context, it does not change the position, as noted in the preceding paragraph, that it is the complete £1.5M offering from the applicant that requires to be taken into consideration as a material consideration.
- 262 A further key point is the timing of delivery of the financial contribution. The applicant has advised that the payment would be triggered at first operation of the wind farm. The

applicant verbally advised officers that the earliest this would occur is 2019 (based on a position from 2015 therefore now likely to be 2020 or 2021) and would be predicated on the issue of planning consent, a suitable Contract for Difference subsidy being obtained from the UK Government, appropriate development funding being secured by the applicant and the applicant choosing to proceed with the development. Therefore, restoration works that utilised this money could not begin until at least 2020 if not later. Whilst some of these factors may change or indeed drop away, this does highlight that the delivery of the financial contribution is outwith the Council's hands.

- 263 A final point of note is that the provision of £1.5M towards restoration of the Grievehill SCM would enable a degree of restoration works to take place but is insufficient for complete restoration. The Council's consultants costed the restoration of Grievehill SCM to the approved restoration condition as £7.7M although more recent indicative restoration masterplans have been costed at c£4.657M which makes the sites safe and offers a basic restoration scheme (the 'basic' restoration scheme) and for c£7.067M as an alternative 'full' site restoration. Even were a reduced restoration scheme to be pursued the £1.5M would not result in complete restoration. As such the £1.5M would most likely be a top up to other restoration funds, were they to be secured for the Grievehill site or for targeted restoration of part of the SCM.
- 264 In this respect the Council has committed £10M towards restoration of abandoned surface coal mine sites. Cabinet approval has been given to allocate £4M of this towards the restoration of Skares SCM. Subject to the approval of Cabinet in due course it is the intention of the Planning and Finance sections to allocate £3M of the remaining £6M towards the Garleffan and Grievehill surface coal mine complex. Additionally, the Scottish Government has committed to spending c£1.1M on the SPA section of the Grievehill SCM. This totals £4.1M in addition to the bond monies already secured in the Garleffan/Skares settlement. Therefore an addition c£840k towards Garleffan/Grievehill complex can be added to the £4.1M resulting in a total of £4.940M. Following ongoing review of bond funding the Council may also be in a position to allocate a further c£160k. This potentially results in c£5.1M towards restoration. Subject to ongoing discussions with the various land owners it is anticipated that works are likely to commence during 2017.
- 265 On the basis of the foregoing (and subject to approvals for monies to be allocated and restoration to begin) it is most likely that the £1.5M offered by the applicant would operate as a top up to the larger (though not yet fully committed) restoration fund. The £1.5M would go some way to bridging the gap between 'basic' and 'full' restoration (noting both are alternatives to the originally consented schemes) although in itself is not required to achieve the 'basic' restoration scheme.
- 266 As previously noted the provision of the money and its timing in relation to restoration cannot be relied upon as this is outwith the hands of the Council. This has potential implications for the degree of restoration achievable and the timings of any such works. For example, if restoration is progressed using the 'basic' restoration scheme (and subject to commitment of the finances), it is questionable whether the scheme could or should be designed in such a way as to be acceptable if the £1.5M was not delivered but also provide the flexibility to allow an additional £1.5M to be spent at some time in the future if it was indeed delivered. Undue cost would also be incurred in remobilising

plant at a later date such that less 'value' could be achieved with the £1.5M alone than if it were added now to the main restoration element.

- 267 The offer to provide £1.5M towards restoration of the SCM has the potential to provide significant environmental benefit, most likely so where it is used in combination with the other funds to achieve a better, more wide ranging restoration scheme. However, the trigger for payment commencing would be at first operation of the wind farm which is a number of years from now. During the period in the run up to construction actually commencing there are a number of factors that must be put in place, most of which are outwith the control of the Council. On this basis it is considered that there is reasonable potential that the financial offering will not be delivered in practice, if it were to be delivered it will be insufficient on its own to effect substantial restoration (and more likely will be delivered after substantial restoration has already occurred at the site) and its timing is such that it will be delivered in a number of years from now. All of these concerns are considered to reduce the more considerable weight that may otherwise have been attributable to such an offer.

Impact on Amenity

- 268 As previously stated in this report the proposal would result in significant and unacceptable adverse impact on the setting and appearance of New Cumnock including the surrounding rural area, recreational routes and landscapes. Two rural properties are also unacceptably significantly affected to the extent that they would become unsatisfactory places to live although it is noted that one of these would be vacant for the lifetime of the development.

Consultation Responses

- 269 A number of consultees have offered no objection or no objection subject to conditions. However the comments of SNH with regard to the turbine height reduction have not been addressed by the applicant in their submission and remain of concern. An objection from two separate aviation consultees is of particular note and despite the applicant having a considerable period of time to resolve such concern neither consultee has indicated that an acceptable solution has been found.
- 270 The objection from the RSPB is contrary to the position of SNH on the SPA matter. Their position on site restoration is noted and it is agreed that in principle it would have been useful to have had an application that presented a revised restoration plan for the whole of the former surface coal mine site. However, the development as proposed requires to be considered now and it is noted that the proposal does not preclude wider site restoration from taking place following construction and offers some minor consequential restoration as a result of development construction works. It is noted that the Grievehill water body and works in the SPA are not included in the application site but that the applicant has proposed a financial contribution towards the restoration of these areas. The conditions requested by the RSPB could be included in the consent should it be granted.
- 271 The position of the local community council's is one contrast. One community council supports the application and one has no objection. Three others object for a wide variety of reasons, all as set out above. It is particularly relevant that the host

community council, New Cumnock Community Council has objected to the development. It is agreed that the development will unacceptably impact New Cumnock by way of visual impact although it is disagreed that cumulative effects are unacceptable taking account of the existing and approved schemes. As community benefit is not a material consideration no weight is attached to their concern about a perceived misdirection of such monies.

Representations

- 272 The application has not attracted a large number of objections however there are a number of notable consultees including three local community councils and two aviation consultees amongst those who have objected. The objections made by the aviation consultees are considered to be significant and in the absence of resolution the proposal represents a threat to air safety. Such matters should be given very considerable weight.
- 273 The remaining key points of objection from the consultees and from individuals generally fall within three broad areas of concern namely site restoration, landscape and visual effects and environmental effects. Detailed consideration of each of these matters has been set out throughout this report. The concerns around site restoration are well made and understandable and it is agreed that a proposal that combined the development with a clear long term restoration proposal for the wider SCM's would have been useful however the proposal as it stands requires to be considered on its own merits. In this respect the proposal does not preclude wider site restoration from taking place, offers a small degree of consequential site restoration and puts forward £1.5M towards SCM restoration.
- 274 On landscape and visual matters it is agreed that the significant effects of this development are unacceptable. The location of the turbines nearer the edge of the landscape character type combined with their height result in significant adverse effects on more settled adjacent landscapes including the receptors within those areas. This includes significant effects over large parts of New Cumnock, local recreational and access routes as well as impacts on individual properties.
- 275 Turning now to environmental effects, relevant consultees including SNH and SEPA have raised no objection subject to planning conditions. A number of potential adverse environmental effects can be mitigated by the use of planning conditions to secure detailed information that the developer will be required to comply with during construction.
- 276 Of the other matters raised by objectors and not covered above it is considered that none would warrant refusal of the application.
- 277 The letters of support raise a number of relevant matters and it is agreed that the benefits of generating electricity from renewable sources and local economic benefit such as jobs are welcome. Whilst the potential of a 'community turbine' based on one third of a turbine is noted, due to the very early stages of discussions little weight is attributable to this element.

278 The comments by supporters about the design of the windfarm and its lack of unacceptable impacts on local communities is not one that is shared by the Planning Authority as explained in detail throughout this report. The location of the windfarm on disturbed ground does indeed reduce some impacts of the development particularly so when compared to developments on virgin land however these benefits do not outweigh the wider landscape and visual impact arising which falls on a range of receptors and particularly so on the local area including settlements, individual properties, local roads and routes and areas of local open space.

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

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

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

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

281 This assessment has concluded that the total decommissioning and restoration costs for the development (excluding track, watercourse crossings and cabling etc.) would amount to £979,623 including a provisional sum to cater for a 5 year aftercare of the site. This figure was provided two years ago and as such the effects of inflation over that period have not been included and the effects of inflation going forward would also require to be taken into account in the final calculation of the guarantee amount.

Applicant's Proposals for Financial Guarantee

282 In terms of securing the site decommissioning and restoration the applicant intends the following arrangements.

- Estimate that the costs of such would be in the region of £744,000
- Scrap value of turbines has been included;
- Includes restoration of access track but does not include upgrade of track prior to dismantling or aftercare costs;
- Once the project has reached financial close (before work starts on site) the guarantee would be provided in the form of a bank bond. In advance of financial close of the project the guarantee would be through a Parent Company Guarantee underwritten by Peel Holdings Land and Property UK Limited.

The inclusion of scrap value is contrary to the procedures of the Council on such matters and is not taken into account by the Council's consultant in their calculation of the

restoration financial quantum. Whilst the figures of the Council's consultant and those of the applicant are not substantially different, how these figures have been calculated are subject to very considerable differences, such as the inclusion of scrap value and restoration of access tracks.

FINANCIAL AND LEGAL IMPLICATIONS

Financial implications

- 283 Should the Planning Committee support the recommendation that the Council refuse this proposed development then it could result in an appeal by the applicant to the Scottish Government Department for Planning and Environmental Appeals (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.
- 284 In recent appeals of a similar nature further procedure has been via further written representation or hearing session. 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 the Council's behalf as necessary.
- 285 Furthermore, if the Council is considered to have acted unreasonably in refusing the proposed development or in its handling of the appeal, a claim for an award of expenses could be made by the applicant.

Legal implications

- 286 Also as stated elsewhere within the report, if the Planning Committee is minded to approve planning consent for this development certain matters should be addressed by Section 75 Legal Agreement under the 1997 Act, (and/or through conditions or other means as appropriate, (as referred to throughout the report)).
- 287 In this regard Heads of Agreement under Section 75 of the 1997 Act, to be concluded prior to the issue of consent, should comprise the following:
- An Independent Planning Monitoring Officer to be appointed by the Planning Authority, with the cost of providing this service being met by the developer. Such appointment would address suspensive and ongoing environmental planning condition advice, on site monitoring and reporting during the construction period and restoration period following construction and during the decommissioning and restoration period.
 - The provision of a suitable decommissioning, restoration and aftercare guarantee by the developer agreed by the Planning Authority as being sufficient and acceptable in value and risk to secure the decommissioning of the turbines and the restoration and aftercare of the site, that appropriate review periods and mechanisms to alter the guarantee are agreed and that the Council's costs in reviewing the value are paid by the developer.

- 288 In addition to these two matters the committee may wish to consider securing the £1.5M financial contribution towards SCM restoration through legal agreement. The applicant has suggested that this payment can be secured via s69 of the Local Government (Scotland) Act 1973 as based on the advice in Circular 3/2012 (Planning Obligations and Good Neighbour Agreements) and that the requirement for a section 75 agreement would fail the test of necessity as it can be undertaken via s69 and that the financial contribution is not necessary to make the wind farm development acceptable in planning terms.
- 289 The payment could be secured via s69 however it is disagreed that a s75 would not be appropriate. As set out above, the financial contribution is considered to be a material consideration. Should committee consider that the financial contribution element would make an otherwise unacceptable development acceptable, it is considered that the use of a s75 is justifiable under the terms of the Circular as the payment would be necessary to make the wind farm development acceptable. It is also relevant that a s75 runs with the land and binds successors in title thus securing the proposed contribution which will not be released for a number of years (and only following export of electricity from the development) in a more robust manner than proposed by the applicant through the s69.
- 290 Further, should committee consider that the provisions of Policy CS15 (Renewable Energy Fund contributions) are to apply in lieu of the £500k SCM restoration financial contribution, this matter should be secured through a s75 obligation also.
- 291 In accordance with Council's revised arrangements for consideration of Financial Guarantees relative to certain types of development, prior to sign off in this case by the Depute Chief Executive, Planning, Finance and Legal Services have all been involved in the process of assessing the applicant's proposed arrangements for securing their decommissioning and restoration obligations (as set out above). In this case, no agreed position in terms of what would comprise the financial guarantee for the decommissioning and restoration of the proposed development has been reached between the developer and the Council.
- 292 In compliance with the Council's Cabinet Report on Decommissioning, Restoration, Aftercare and Mitigation of Financial Guarantees dated 21 May 2014 any wind farm proposal will require to comply with the terms of this report in relation to the submission, agreement, implementation and monitoring of financial guarantees and will also be expected to be in accordance with the assessment of costs from Ironside Farrar (and allowing for the effects of inflation and the addition of costs for other reasonable matters not currently costed by Ironside Farrar), subject to any agreed modifications which might be justified on cause shown by the applicant during further negotiation at the appropriate stage.
- 293 Should the Planning Committee decide to grant consent, there is a requirement to refer this application to Scottish Ministers, the Civil Aviation Authority, NATS and Glasgow Prestwick Airport as set out within Circular 2:2003 – 'Safeguarding of Aerodromes, Technical Sites and Military Explosives Storage Areas: The Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2003'. No issue of consent can be undertaken before the expiry of

a period of 28 days beginning with the date Ministers acknowledge receipt of the notification or any lesser period Ministers may substitute.

COMMUNITY PLAN

- 294 The East Ayrshire Local Plan 2010, referred to above, takes account of the main themes of the Community Plan at Appendix 1 in Volume 1 of the EALP 2010.

CONCLUSIONS

- 295 As set out in the Development Plan section of the report, this application is not considered to be in accordance with the Development Plan. The Development Plan is supportive of renewable energy generation in principle subject to assessment against a number of varied criteria. The landscape and visual effects of the development fall on a range of receptors including large parts of New Cumnock and its surrounding rural area. The significant adverse impacts of the development are primarily a result of the location of the development in close proximity to smaller scale, more sensitive landscapes and the height of the turbines which do not fit with the scale of the area of the host landscape in which they are located and have resultant impacts on the adjacent landscapes. The development would be a very prominent visual presence over large swathes of New Cumnock including housing areas, roads and recreational locations. This results in significant numbers of receptors being affected.
- 296 Additionally, the proposal is considered to have overbearing type effects on two individual dwellings. Whilst one is in the control of the applicant and could remain vacant, the other is not and would become an unsatisfactory place to live. Such impact is primarily from a visual perspective however increased noise levels and potential effects from shadow flicker compound these concerns. These significant impacts are considered to be unacceptable.
- 297 Additionally, the outstanding aviation objections from two separate consultees indicate that the development has not adequately addressed air safety impacts and the proposal to capitalise an equivalent REF contribution for SCM restoration means that there would be no contribution to the REF. This also indicates that the proposal does not meet with the terms of the development plan.
- 298 Impacts on other matters highlighted through the development plan including the natural environment, built heritage, access and the water environment are considered to be acceptable provided that appropriate planning conditions are attached to any consent granted.
- 299 There are a number of material considerations relevant to this application the most significant of which are addressed in detail above. In terms of national policy the Scottish Government gives strong but conditional support to renewable energy generation as set out through SPP. Similarly to the Development Plan position set out above it is considered that this development does not demonstrate that there are no unacceptable significant impacts when assessed against a number of the criteria set out at part 169 including landscape and visual impacts, impacts on communities and individual dwellings, recreation impacts and aviation. Whilst it is acknowledged that

there are positive net economic impacts, contributions to energy targets and effects on greenhouse gas emissions, these do not outweigh the adverse effects.

- 300 The presumption in favour of development that contributes to sustainable development set out by SPP is engaged and given the age of the development plan it could be a significant material consideration in favour of the development. However, given the scale of the adverse impacts of the development it is considered that the development cannot truly be described as sustainable development when assessed against the detailed criteria and as such the presumption is not significant in this case and merely a material consideration.
- 301 The financial contribution towards the restoration of the Grievehill SCM is a significant consideration. The financial contribution would not enable the complete restoration of the SCM in itself however it would make a meaningful contribution towards restoration and particularly so if it was supplemental to other restoration funds that are already in the process of being delivered. However, the financial contribution is caveated and monies would not be delivered until the date of first operation of the windfarm. At best it will be the end of the decade when monies are paid therefore restoration of the SCM could not start (or could not be continued if already started) for a number of years or more likely would be delivered following the completion of a restoration scheme in the intervening time. The Council could not rely upon the delivery of such money as the triggers for development commencement are outwith the Council's control. It is therefore entirely feasible that in practice the restoration monies would not be secured. It is considered that the weighting to be attributed to the SCM restoration financial contribution should be reduced to reflect this situation.
- 302 The findings of the Council's independent landscape architect indicate that this development should not be supported. In particular it is highlighted that the turbines are too large resulting in significant landscape and visual effects. They recommend that the turbine height should be substantially reduced. Guidance on how to avoid or minimise such effects is set out within the Capacity Study. The Capacity Study does not advocate turbines of this height in this part of the landscape. As highlighted by the landscape architect, the scope of significant effects demonstrates that the development has not properly taken account of the Guidance. The findings of the landscape architect and the content of the Guidance are not supportive of the Development. It is noted that SNH also consider that the turbines are too large for this location.
- 303 The East Ayrshire Local Development Plan: Proposed Plan is currently undergoing examination and the majority of the relevant policies are subject to objection. Until such time as the Scottish Government Reporters issue their report it is considered that limited weight can be attributed to the Plan. However, the Plan reflects many of the same considerations as the Development Plan and SPP and as such it indicates that the application should not be supported. A number of objections from consultees and third parties raise relevant concerns including the landscape and visual impact and aviation impact.
- 304 In summary it is considered that the adverse effects of this development including the landscape and visual impact, impacts on communities and properties, recreational impact and impact on aviation are significant and unacceptable. The benefits of the development including the economic impact, effect on greenhouse gas emissions and

contributions towards renewable energy generation targets do not outweigh these adverse impacts. For these reasons the proposal does not comply with the Development Plan.

- 305 The material considerations often reflect the same position as the Development Plan including the assessment against SPP, the objections, a number of the consultee responses, the findings of the landscape architect and the Capacity Study. The contribution towards SCM restoration would have welcome environmental benefits however the caveated nature of the contribution brings into question whether it will be delivered in practice and there would be a delay of a number of years before payment during which time restoration is likely to have already occurred. The financial contribution, the presumption in favour of development that contributes to sustainable development and all other supportive material considerations such as the letters of support are not considered to be sufficient to outweigh the terms of the Development Plan particularly so where a number of other material considerations are not supportive of this development.
- 306 Taking all relevant matters into consideration it is therefore considered that the application should be refused.

RECOMMENDATIONS

- 307 ***It is recommended that the application be refused for the reasons on the attached sheet.***

CONTRARY DECISION NOTICE

- 308 Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development the application would not require to be referred to Council as it would not represent a significant departure from Council policy. The proposal does not represent a significant departure from the Development Plan as the general principle of renewable energy generation is supported, subject to detailed assessment against various criteria. The proposal has been found to be unacceptable following this detailed assessment. The referral to Scottish Ministers noted at the Legal Implications section above would remain however.

Michael Keane
Head of planning and Economic Development

10 October 2016

FV/DMcD

LIST OF BACKGROUND PAPERS

1. Application documentation including Environmental Statement, Supplementary Environmental Information, non-technical summary, updated planning statement, updated design and access statement and application form
2. Approved Ayrshire Joint Structure Plan (2007).
3. Adopted East Ayrshire Local Plan (2010).
4. The Energy White Paper 2007
5. Written statement to Parliament on 18 June 2015 by the UK Secretary of State for Energy and Climate Change.
6. Oral statement to Parliament on 22 June 2015 by the UK Secretary of State for Energy and Climate Change.
7. The Climate Change (Scotland) Act 2009.
8. Renewable Energy Generation Policy Statement (June 2013)
9. Chief Planning Officer letter to Heads of Planning dated 11 November 2015.
10. National Planning Framework.
11. Scottish Planning Policy.
12. SPP clarification – onshore wind ‘some questions answered’.
13. East Ayrshire Local Development Plan: Proposed Plan.
14. Scottish Government online guidance – on shore wind turbines, May 2014.
15. SNH Siting and Designing Wind Farms in the Landscape Version 2 May 2014.
16. Ayrshire Joint Planning Steering Group Wind Farms: Addendum to Ayrshire Joint Structure Plan Technical Report TR03/2006
17. PAN 1/2011 Planning and Noise
18. Garleffan windfarm summary report and proposed daytime quiet hours noise limits by ACCON UK Ltd (Noise report)
19. Garleffan LVIA Review by Ironside Farrar, August 2016 (Landscape architect report)
20. East Ayrshire Landscape Wind Capacity Study (July 2013)
21. Consultation responses
22. Letters of representation
23. Applicant letter regarding Financial Guarantee Proposal dated 9 December 2014.
24. Applicant letter regarding SCM financial contribution dated 15 January 2015.
25. Applicant letter confirming final position on various matters dated 17 June 2016.
26. Applicant letter on PMO provision and providing commentary on Council consultant reports dated 13 September 2016.
27. East Ayrshire Council letter to applicant dated 10 October 2013.
28. East Ayrshire Council Report to Cabinet, 21 May 2014, Decommissioning, Restoration, Aftercare and Mitigation Financial Guarantees
29. East Ayrshire Council Report to Council, 28 January 2014, Independent Review of the Regulation of Opencast Coal Operations in East Ayrshire - The Council’s Response
30. East Ayrshire Council Report to Council, 19 September 2013
31. East Ayrshire Council Report to Cabinet, 24 May 2013
32. East Ayrshire Council Economic Development Strategy 2014/2025.
33. Review by Independent Assessor (Ironside Farrar) on decommissioning costs, October 2014.
34. Letter dated 28 August 2014 from Pinsent Masons on behalf of applicant.
35. Circular 3/2012: Planning Obligations and Good Neighbour Agreements
36. Circular 4/1998: Planning conditions

37. Circular 2/2003: Safeguarding of Aerodromes, Technical Sites and Military Explosives Storage Areas: The Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2003
38. The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009
39. Circular 5:2009 Hierarchy of Developments.
40. Historic Scotland, Managing Change in the Historic Environment: Setting, 2016.
41. Getting the best from our land, a land use strategy for Scotland, Scottish Government, 2011.
42. East Ayrshire Council Report to Cabinet 20 April 2016.

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

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

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 13/0210/PP

Location	Land To North Of New Cumnock, Comprising Land At Garleffan And Grievehill A76t Polquhap To Mansfield Roundabout New Cumnock E Ayrshire
Nature of Proposa:	Construction of a wind farm comprising up to 9 wind turbines and associated infrastructure including access tracks, control building, meterorolgical masts, electrical cabling and temporary construction compound.
Name and Address of Applicant:	Peel Windfarms (Garleffan) Ltd The Trafford Centre Manchester M17 8PL
Name and Address of Agent	Stephenson Halliday FAO Simon Herriot Environmental Planning, Landscaping Architecture 7th Floor Atlantic House 45 Hope Street Glasgow G2 6AE

Officer's Ref: David Wilson
01563 576779

The above Planning Permission application should be refused for the following reasons:

- 1. The development is contrary to policies ECON6, ECON 7(e), ENV1(a) and (e) of the Ayrshire Joint Structure Plan and policies SD(i), (ii) and (iii), CS12(ii) and (iv), CS14(e), ENV15(i), (v) and (vi), ENV16, ENV17(iv) and ENV20 of the East Ayrshire Local Plan. The development has significant and unacceptable landscape and visual effects resulting from its location near to lowland settled landscapes and the disparity of scale between the turbines and landscapes with which they would be seen. The skyline, setting and scenic qualities of New Cumnock would be adversely affected by this scale disparity such that the turbines would be the most prominent and largely inescapable feature of the area. Significant visual effects would occur to large numbers of receptors due to the proximity of the development to New Cumnock and its rural surroundings. Such visual effects fall not only on large swathes of the settlement but also the surrounding recreational path network, the road network including a part of the A76 trunk road and the B741 settlements of**

Leggate, Connel Park and Bank Glen. Additionally the development results in overbearing type effects on the rural property known as High Polquheys such that that property becomes an undesirable place to live.

2. The development is contrary to policies ECON6 and ECON7(e) of the Ayrshire Joint Structure Plan and policy CS14(e) of the East Ayrshire Local Plan as it has unacceptable adverse technical impact on radar which could adversely affect the operating ability of Glasgow Prestwick Airport and NATS which has potential air safety implications.
3. The development is contrary to policy CS15 of the East Ayrshire Local Plan as there is no contribution to the Renewable Energy Fund.
4. The development does not satisfy the requirements of Scottish Planning Policy due to:
 - Its unacceptable adverse effects on communities including New Cumnock by way of its visual impact on that settlement and its setting and appearance within its landscape setting and the rural property of High Polquheys by way of its visual and residential amenity impacts such that that property becomes an undesirable place to live;
 - Its general landscape and visual impacts resulting from the scale disparity of the turbines with the landscape area in which they are located and on those landscapes with which they would be seen. Visual impacts fall on large numbers and varied local receptors and the turbines would be the most prominent local feature;
 - Its indirect adverse visual effects on the local recreational resource such that local receptors in and around New Cumnock have no relief from the significant visual presence of the development; and
 - Its adverse effects on aviation interests due to technical impacts on radar affecting NATS and Glasgow Prestwick Airport.

Reason for the decision

The significant adverse effects of this development including the landscape and visual impact, impacts on communities and properties, recreational impact and impact on aviation are considered to be unacceptable. For these reasons the proposal does not comply with the development plan.

The material considerations often reflect the same position as the Development Plan including the assessment against SPP, the representations, the consultee responses, the findings of the landscape architect and the Capacity Study. The benefits of the development including the economic impact, effect on greenhouse gas emissions and contributions towards renewable energy generation targets are noted and the contribution towards SCM restoration would have welcome environmental benefits however the caveated nature of the contribution brings into question whether it will be delivered in practice and there would be a delay of a number of years before payment during which time restoration is likely to have already taken place.

On balance, the financial contribution, the presumption in favour of development that contributes to sustainable development and all other supportive material considerations are

not considered to be sufficient to outweigh the terms of the Development Plan particularly so where a number of other material considerations are not supportive of this development.

Appendix 1: Appropriate Assessment

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

10 August 2016

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

SPA and project Description	
Brief description of the proposal	<p>The proposal is for 6 wind turbines up to 135 metres to tip height comprising of a maximum hub height up to 83 metres and a maximum rotor diameter of 107 metres. Each turbine has a hardstanding area of 2,100m² adjacent with turbine transformers located within the turbine or adjacent to each tower. New on site access tracks of approximately 1.4km in length, the upgrading of 1.6km and the use of 3.9km of existing track with a number of passing places and a new water course crossing. Also proposed is a substation and control building, a freestanding lattice type meteorological mast of up to 83m in height and underground cabling. All of these elements are subject to a 50m micro siting tolerance.</p> <p>A temporary site compound including a site office for construction and storage within an existing compound associated with the SCM will be used during the construction period which will last approximately 8 months. Thereafter the wind farm would operate for a 25 year period followed by an unspecified decommissioning and restoration period although such period is unlikely to exceed the construction period.</p>

Brief description of the designated Natura site	Citation
	<p>Muirkirk and North Lowther Uplands Special Protection Area (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.</p> <p>Muirkirk and North Lowther Uplands SPA qualifies under Article 4.1 by regularly supporting breeding populations of European importance of the Annex I species; hen harrier <i>Circus cyaneus</i> (average of 29.2 breeding females between 1994 and 1998, 6% of GB), short-eared owl <i>Asio flammeus</i> (average of 26 breeding pairs between 1997 and 1998, 3% of GB), merlin <i>Falco columbarius</i> (average of 9 breeding pairs between 1989 and 1998, 0.7% of GB), peregrine <i>Falco peregrinus</i> (average of 6 pairs between 1992 and 1996, 0.5% of GB), and golden plover <i>Pluvialis apricaria</i> (an estimated minimum of 154 pairs in 1999, 0.7% of GB). The hen harrier population on this site is one of the largest in Britain. The short-eared owl is widely dispersed across its British distribution and the population in Muirkirk and North Lowther Uplands is one of the largest in Britain.</p> <p>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 <i>Circus cyaneus</i> (average of 12 individuals between 1991 and 1995, 2% of GB).</p>

	<p><u>Additional</u></p> <p>During the breeding season the SPA supports:</p> <ul style="list-style-type: none"> • 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. <p>Overwinter the SPA supports:</p> <ul style="list-style-type: none"> • Hen Harrier, 10 individuals representing at least 1.3% of the wintering population in Great Britain. <p>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.</p>
<p>Conservation objectives for the SPA</p>	<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> <ul style="list-style-type: none"> • 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

	<ul style="list-style-type: none"> • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species <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>
Significance of effects: Screening	
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.
Consider whether there are any likely direct, indirect or secondary impacts of the project on the Natura site	The potential impacts include: <ul style="list-style-type: none"> (i) Disturbance of breeding territories for QS within the SPA, from the construction, operation and decommissioning of the development; (ii) Loss of foraging habitat, during the construction phase, used during the breeding season by QS nesting within the SPA but foraging at times outside its borders; (iii) Collision risk mortality by populations of QS from those birds breeding (nesting) within the SPA but using the site during operation of the development; (iv) Disturbance of overwintering foraging hen harrier from the construction, operation and decommissioning of the Development; and (v) Collision risk mortality for overwintering foraging birds (hen harrier only) during operation of the Development. (vi) In combination effects with the unrestored surface coal mine and cumulative collision risk with other wind farm development.
Consider the key phases of development and the risk of effects associated with each.	Construction work: <ul style="list-style-type: none"> • Disturbance of breeding territories of QS and wintering hen harrier by construction work/noise/intervisibility. Delays in construction period commencement could result in changed baseline due to SCM restoration

	<p>commencing or degree of natural regeneration occurring.</p> <ul style="list-style-type: none"> • Loss of 10.9ha of foraging land/habitat outwith the SPA but potentially used by QS. <p>Operation:</p> <ul style="list-style-type: none"> • Disturbance of breeding territories from wind turbine noise and intervisibility. • Loss of 4.9ha of foraging land/habitat outwith the SPA but potentially used by QS. • Collision risk for QS from SPA but using site. <p>Decommissioning:</p> <ul style="list-style-type: none"> • Disturbance of breeding territories/active nests from constructionwork/noise/intervisibility
<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 SPA comes to within 600m of the nearest turbine at its closest point and as such no part of the development is within the SPA. The current restoration provision and the unclear timetable for future restoration of the surface coal mines which are within and adjacent to the SPA results in an unclear magnitude of effect. However, the SEI has assessed a potential future best/worst case scenario (in that full restoration would best support the SPA returning to favourable status but leading to greatest potential impact from the Development on QS) where the SCM's are restored in accordance with the approved plans. This scenario has not resulted in any identified significant impacts on the QS. Additionally, the very low/no collision risk findings from this development on QS does not add to collision risks at other development sites around the SPA.</p> <p><u>Greatest risk of effects</u></p> <p>In combination effects with the unrestored SCM in the SPA has been identified as the greatest risk of significant effects occurring. The loss/displacement of one pair of breeding golden plover from habitat loss and the potential displacement of a further 4 pairs. This loss is almost completely attributable to</p>

	<p>the SCM but despite the very limited additional effect that the development generates it would remain significant in relation to the SPA population.</p>
<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>Other than in combination effects on golden plover from the unrestored Grievehill SCM the development alone and in combination with the Grievehill SCM (in a restored to originally approved extent or in an unrestored state) would have no or inconsequential effects and are not significant on the SPA.</p> <p>However, the loss and displacement of Golden Plover by the ongoing lack of restoration at Grievehill SCM is itself a significant effect on the SPA therefore the in combination effects with the Development result in significant effects on the SPA regardless of the limited scale of any predicted effects on the species from the Development.</p>
<p>Appraisal of Impacts on Site Integrity</p>	
<p>Identify the relevant conservation objectives to consider for the SPA.</p>	<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"> • 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 <p>No significant disturbance of the species</p> <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>
<p>Can it be ascertained that the proposal/plan will not adversely affect the integrity of the SPA?</p>	<p>A Habitats Regulations Appraisal (HRA) for the proposal has been carried out for the original 9 turbine development and a revised HRA for the</p>

6 turbine development. These are located at chapter 23 of the Environmental Statement and chapter 23 of the SEI. Additionally the applicant provided a table of analysis, based on information from the ES and SEI, setting out the impact of the development on each qualifying species against each conservation objective. This was provided at the request of the Planning Authority to provide a clearer understanding of the impacts set out in the ES and SEI but in a format suitable for expressing within this appropriate assessment.

Golden Plover

Population of the species as a viable component of the site

Despite historic data showing previous breeding pairs located approximately 1km from a turbine, they are no longer present in surveys up to 2014. Collision risk analysis is based on best case for golden plover using a fully restored surface coal mine. Despite this collision risk is low and effects not significant. Flight paths connecting nest sites have been surveyed and do not pass through the wind farm. Construction disturbance is low and not significant.

Distribution of the species within site

No displacement of golden plover during construction or operation would take place. Restoration of the SCM was designed to develop habitat that would support breeding golden plover and should this occur it remains greater than 600m from the wind farm and the population would not be adversely affected by the development.

In the absence of restoration there is a risk that the Grievehill SCM will have had a significant impact on breeding golden plover within the SPA through the loss/displacement of one breeding pair through habitat loss and the potential displacement through disturbance of a further four pairs (info originally obtained from Grievehill SCM Extension ES). As such the in combination effect of the development

with the unrestored Grievehill SCM would also technically be significant in relation to the SPA population, regardless of the limited scale of effect on this species from the development alone.

Distribution and extent of habitats supporting the species

Despite historic golden plover populations around 1km from the windfarm these have not returned in surveys up to 2014. Surrounding habitat outwith the SCM and also within the SPA was managed to increase potential for breeding golden plover, predicted to take effect during windfarm operation. The financial contribution towards restoration of the SCM in the SPA would improve habitat most suitable for Golden Plover breeding and feeding.

Structure, function and supporting processes of habitats supporting the species

The land within the footprint of the windfarm is land disturbed by the SCM activity and has little or no value in terms of supporting the SPA golden plover population. Consequential restoration works and habitat management objectives of the windfarm may increase the extent of habitat although such habitat is outwith the SPA.

No significant disturbance of the species

It is unlikely that the construction and operation of the wind farm would result in any detectable disturbance or effect on Golden Plover within the SPA however the effects associated with the current unrestored element of the SCM within the SPA combines to a create a significant in combination effect albeit almost entirely attributable to the SCM. In response to this the applicant proposes mitigation measures to help increase golden plover breeding success.

Hen harrier

Population of the species as a viable component of the site

Numbers of breeding pairs have been in long term decline. No known breeding sites within 1km of the site boundary including when populations levels were higher. Some Hen Harrier flights were recorded within collision risk area during survey however all were below 30m in height, outwith the collision risk zone. As such no impact is predicted for collision risk mortality. Construction disturbance is likely to be low and limited to foraging birds. There would be no significant effects due to these short-term operations.

Distribution of the species within site

No displacement will take place. No current breeding sites would be affected. There is a low abundance of prey species within the wind farm site due to its unrestored habitat. Restored habitats are maturing and over time they may become suitable for hunting due to prey densities increasing, all during the operational period of the wind farm. The proposed financial contribution towards restoration of the SPA would allow restoration and habitat management objectives to be undertaken, increasing prey over time. Such works are over 600m from the wind farm therefore any increase in Hen Harrier population would not be affected by the wind farm.

Distribution and extent of habitats supporting the species

The wind farm is located 600m west of the SPA, and therefore does not affect the habitat within the SPA that supports these species.

Structure, function and supporting processes of habitats supporting the species

As the wind farm is located over 600m west of the SPA, it does not affect the structure and function of the SPA habitats which support these species. The wind farm site habitat is adversely affected by the SCM but restoration and habitat management associated with the

wind farm may increase the extent of habitats over time.

No significant disturbance of the species

It is unlikely that the construction and operation of the wind farm would result in any detectable disturbance or effect on Hen Harriers within the SPA.

Merlin

Population of the species as a viable component of the site

Not recorded breeding within the 800m buffer. Historic records show no nest sites within the SPA within 3km of a turbine. Merlin were recorded within the collision risk area however, all flights were below 30m and therefore not within the collision risk zone. No impact on this species through collision mortality is predicted. The likelihood of construction disturbance to Merlin is considered to be negligible and not significant.

Distribution of the species within site

No current breeding sites would be affected and the activity of Merlin within this part of the SPA is also very low.

Distribution and extent of habitats supporting the species

The wind farm is located 600m west of the SPA, and therefore does not affect the habitat within the SPA that supports these species

Structure, function and supporting processes of habitats supporting the species

As the wind farm is located over 600m west of the SPA, it does not affect the structure and function of the SPA habitats which support these species. The wind farm site habitat is adversely affected by the SCM but restoration and habitat management associated with the wind farm may increase the extent of habitats over time.

No significant disturbance of the species

It is unlikely that the construction and operation of the wind farm would result in any detectable disturbance or effect on Merlin within the SPA.

Peregrine

Population of the species as a viable component of the site

The nearest nest site is outwith the SPA and there is no known nest sites within 2km's of a turbine. Construction disturbance is likely to be low and no significant disturbance effect is predicted. Collision mortality is predicted to be minor and not significant which actually includes the non-SPA breeding pair.

Distribution of the species within site

No current breeding sites would be affected and there is a lack of suitable sites in proximity to the wind farm, within the SPA.

Distribution and extent of habitats supporting the species

The wind farm is located 600m west of the SPA, and therefore does not affect the habitat within the SPA that supports these species.

Structure, function and supporting processes of habitats supporting the species

As the wind farm is located over 600m west of the SPA, it does not affect the structure and function of the SPA habitats which support these species. The wind farm site habitat is adversely affected by the SCM but restoration and habitat management associated with the wind farm may increase the extent of habitats over time.

No significant disturbance of the species

It is unlikely that the construction and operation of the wind farm would result in any

detectable disturbance or effect on peregrine within the SPA.

Short-eared owl

Population of the species as a viable component of the site

There are no known short eared owl breeding sites within 1km of the windfarm. Recorded flights were to the west of the collision risk area and below collision risk height. Collision risk mortality rates are predicted to be very low and not significant. The likelihood of construction disturbance is low and no significant effect is predicted.

Distribution of the species within site

No current breeding sites would be affected. The current unrestored habitat has a low abundance of prey species. However, the restored habitats on the SCMs are maturing year on year and these areas are likely to become more suitable for hunting with prey densities also likely increasing. This is reflected in an increase in flights observed during the baseline study period for the ES.

The proposed financial contribution towards restoration of the SPA would allow restoration and habitat management objectives to be undertaken, increasing prey over time. Such works are over 600m from the wind farm therefore any increase in short eared owl population would not be affected by the wind farm.

Distribution and extent of habitats supporting the species

The wind farm is located 600m west of the SPA, and therefore does not affect the habitat within the SPA that supports these species.

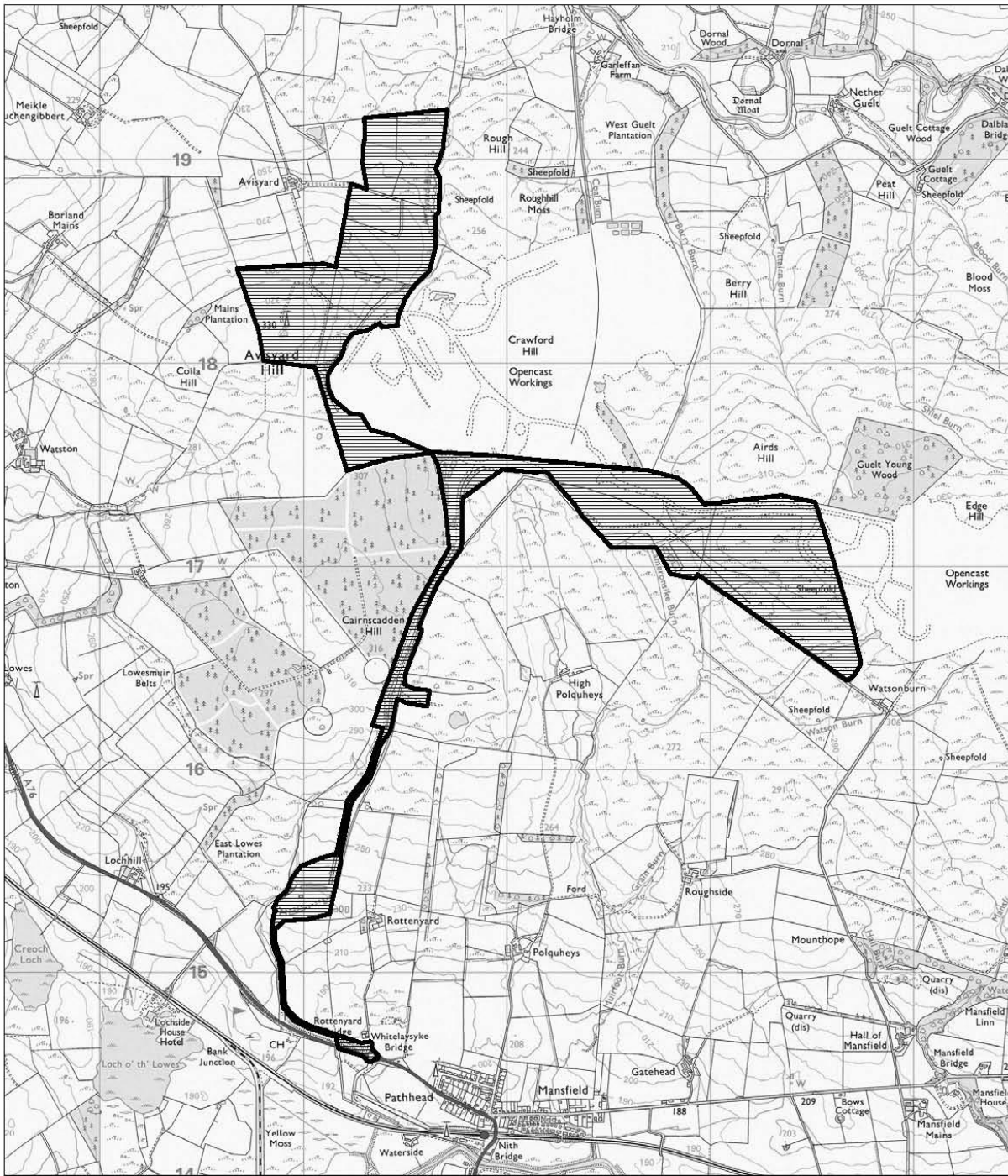
Structure, function and supporting processes of habitats supporting the species



As the wind farm is located over 600m west of the SPA, it does not affect the structure and

	<p>function of the SPA habitats which support these species. The wind farm site habitat is adversely affected by the SCM but restoration and habitat management associated with the wind farm may increase the extent of habitats over time.</p> <p><u>No significant disturbance of the species</u></p> <p>It is unlikely that the construction and operation of the wind farm would result in any detectable disturbance or effect on the population of Short Eared Owl within the SPA.</p>
<p>Consider whether mitigation measures or conditions can be adopted to avoid impacts on site integrity.</p>	<p>The applicant proposes a regime of predator control within the development area and in the SPA within 2km of the development provided access can be negotiated with the aim to increase breeding success of golden plover within the targeted area. This is in response to the in combination effects with the unrestored SCM area within the SPA which itself is potentially significant.</p> <p>Should that area be restored sufficiently to bring the SPA habitat quality back to optimal condition the impact of the development alone would not be significant. However it is considered that the benefits of the mitigation measures could then be treated as enhancement to the benefit of the SPA and golden plover and help to address any time lag between restoration of the SCM in the SPA and recovery of that habitat to optimal condition.</p> <p>This mitigation measure and its deliverability should be secured through planning condition.</p> <p>The applicants proposed noise limit at the SPA boundary such that noise effects on species remain below that proven to cause disturbance should be secured and monitored through planning condition to provide a robust defence against noise disturbance of qualifying species.</p>

Conclusion of Appraisal	
Can adverse impacts on site integrity be avoided?	Subject to securing and implementing the mitigation measures set out at section 11 it can be concluded that adverse impacts on site integrity will be avoided.

Appropriate Assessment undertaken and completed by David Wilson, senior planning officer, 15/09/16.



<p>Title/Location</p> <p>Garleffan</p> <p>Windfarm</p> <p>Application No. 13/0210/PP</p>	<p>East Ayrshire Council</p> <p>Department of Neighbourhood Services</p> <p>Planning & Economic Development Service The Johnnie Walker Bond 15 Strand Street Kilmarnock KA1 1HU Tel: (01563) 576790 Fax: (01563) 554592 E-Mail : Planning@east-ayrshire.gov.uk Com Date : 12/10/2016</p> 
<p>Key</p>  <p>Application Site</p>	

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