

County Buildings  
Wellington Square  
AYR KA7 1DR  
Telephone No.01292 612436



27 January 2026

**To: Councillors Lamont (Chair), Cavana, Clark, Hogg, Kilbride, Kilpatrick, Mackay, Townson and Weir.**

**All other Members for Information Only**

Dear Councillor

**REGULATORY PANEL (PLANNING)**

You are requested to participate in the above Panel to be held on **Thursday 5 February 2026 at 10.00 a.m.** for the purpose of considering the undernoted business.

**Please note that a briefing meeting will take place for all Panel Members at 9.15 a.m., online and in the Dundonald Room.**

This meeting will be held on a hybrid basis for Elected Members, will be live-streamed and available to view at <https://south-ayrshire.public-i.tv/>

Yours sincerely

**CATRIONA CAVES**  
Chief Governance Officer

**B U S I N E S S**

1. Declarations of Interest.
2. Minutes of previous meeting of 10 December 2025 (copy herewith).
3. Hearings relating to Applications for Planning Permission - Submit reports by the Housing, Operations and Development Directorate (copies herewith).
4. Consultation under Section 36 of the Electricity Act 1989 (23/00472/DEEM) – Proposed Wind Farm at Knockodhar B734 from A714 Junction at Pinmore Bridge to Barr Pinmore, South Ayrshire - Submit report by the Housing, Operations and Development Directorate (copy herewith).
5. Consultation under Section 36 of the Electricity Act 1989 (23/00334/DEEM) – Proposed Wind Farm, U27 from B741 Junction at Cloyntie to U66 Junction at South Balloch, Maybole, South Ayrshire - Submit report by the Housing, Operations and Development Directorate (copy herewith).

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| <p>For more information on any of the items on this agenda, please telephone June Chapman,<br/>Committee Services on at 01292 272015, at Wellington Square, Ayr or<br/>e-mail: <a href="mailto:june.chapman@south-ayrshire.gov.uk">june.chapman@south-ayrshire.gov.uk</a> <a href="http://www.south-ayrshire.gov.uk">www.south-ayrshire.gov.uk</a></p> |
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**Agenda Item No 2.****REGULATORY PANEL (PLANNING)**

Minutes of a hybrid webcast meeting  
on 10 December 2025 at 10.00 a.m.

- Present  
in County  
Buildings: Councillors Alan Lamont (Chair), Ian Cavana, Alec Clark, Martin Kilbride and George Weir.
- Present  
Remotely: Councillors Mary Kilpatrick and Craig Mackay.
- Apologies: Councillors Wullie Hogg and Duncan Townson.
- Attending  
In County  
Buildings: C. Iles, Service Lead – Planning and Building Standards; C. Carroll, Service Lead - Housing Strategy and Regeneration; A. Brown, Co-ordinator - Legal and Licensing; E. Goldie, Co-ordinator - Place Planning; D. Clark, Co-ordinator - Development Planning; A. McGibbon, Supervisory Planner – Planning and Building Standards, R. Dominy, Planning Assistant; J. Chapman, Committee Services Officer; and C. McCallum, Clerical Assistant.

**Chair's Remarks.**

The Chair

- (1) welcomed everyone to the meeting; and
- (2) outlined the procedures for conducting this meeting and advised that this meeting would be broadcast live.

**1. Sederunt and Declarations of Interest.**

The Co-ordinator, Legal and Licensing called the Sederunt for the meeting and having called the roll, confirmed that there were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

**2. Minutes of previous meetings.**

The Minutes of previous meeting of 12 November 2025 ([issued](#)) and 13 November 2025 ([issued](#)) were submitted and approved.

**Decided:** to approve these minutes.

### 3. **Hearing relating to an Application for Planning Permission.**

There was submitted a report (issued) of December 2025 by the Housing, Operations and Development Directorate on planning applications for determination.

**(1) 25/00689/APP TOWNEND HOUSE TOWNEND DRIVE SYMINGTON SOUTH AYRSHIRE KA1 5QL** (Planning permission is sought for external alterations to Townend House, a mid-19th century Category B Listed building located within the Townend Estate to the south-west of Symington, together with the formation of a car park within its landscaped grounds)

This item was withdrawn from the meeting's agenda and will be presented to the February meeting of the Regulatory Panel (Planning).

The Panel considered the following applications: -

**(2) 25/00687/APP - 32 A Kyle Street, Ayr, South Ayrshire, KA7 1RZ** (Change of use from Class 9 dwellinghouse to short-term let accommodation)

Following discussions,

The Panel

**Decided:** that the application is approved subject to the following conditions:

(1C) That the development hereby permitted must be begun within three years of the date of this permission.

(1R) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.

(2C) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.

(2R) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.

(3C) That the accommodation hereby approved shall not be promoted, advertised, let, or used for any purpose other than as holiday accommodation, to the satisfaction of the Planning Authority.

(3R) To define the terms of this planning permission, and to retain proper planning control over the development.

#### **List of Determined Plans:**

Drawing - Reference No (or Description): Floor Plan

Drawing - Reference No (or Description): Location Map

Other - Reference No (or Description): Operational Statement

#### **Reason for Decision:**

The proposed change of use proposal is supported by the framework of planning policy including National Planning Framework 4 and Local Development Plan 2 in that it could bring economic benefits to the area and is not expected to have a detrimental impact on residential amenity or the character of the surrounding area. Should any residential amenity issues arise in the future, it would be for Police Scotland, the Council's

Environmental Health Service or Licensing Team to pursue through their regulatory powers.

**(3) 25/00650/FURM LAND AT MANSE ROAD COYLTON SOUTH AYRSHIRE**

(Permission sought so as not to comply with condition 19 of previously consented application Ref. 22/00779/MSCM – this relates to the removal of the requirement to provide on-site affordable housing.)

Following discussions,

The Panel

**Decided:** that the application is approved subject to the following conditions:

1(C) That the proposed development shall commence within five years (unless otherwise agreed in writing by the Planning Service) from the approval of this 'Matters Specified in Conditions' application, or in the case of approval of different matters on different dates, from the requisite approval for the last such matter being obtained.

1(R) To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.

2(C) That the development hereby granted shall be implemented in accordance with the approved plans(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission, or a non-material variation has been agreed in writing by the Planning Authority.

2(R) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.

3(C) Prior to the occupation of the first dwellinghouse within the development site, a Residential Travel Pack/Plan shall be submitted to and approved in writing by the Planning Authority (in consultation with the Council as Roads Authority). The Residential Travel Pack/Plan shall include information on walking, cycling and public transport facilities and services within the vicinity of the development sites (including journey times by sustainable modes of transport to key local destinations) as well as including details which promote feasible sustainable travel to and from the site alongside appropriate measures and actions to reduce car dependence for the development. In addition to this, the Residential Travel Pack/Plan shall include details of the contents of an information pack which will be provided to future occupants of the development to ensure that they are aware of their public transport and active travel options available within the area. Thereafter, the approved Residential Travel Pack/Plan and all associated measures and actions shall be in place and implemented in full prior to the occupation of the first dwellinghouse within the site and as part of this, the approved information pack associated with the Residential Travel Pack/Plan shall be distributed to all new residents within the development.

3(R) To encourage sustainable means of travel.

4(C) That the existing public footway on both sides of Manse Road shall be resurfaced from the proposed site access to the A70. Details of the resurfacing works shall be submitted to and approved in writing by the Planning Authority (in consultation with the Council as Roads Authority) prior to the commencement of development on site. Thereafter, the approved resurfacing details shall be implemented as approved in a timescale to be agreed in writing by the Planning Authority (in consultation with the Council as Roads Authority).

4(R) To ensure that the surrounding public footpaths are of an appropriate standard to serve the footfall associated with the development and encourage and facilitate sustainable means of travel.

5(C) Prior to the commencement of development on site, details for an effective vehicle wheel washing facility shall be submitted to and approved in writing by the Planning Authority (in consultation with the Council as Roads Authority). The details provided shall demonstrate that the facility will be sufficient enough to prevent or limit the occurrence of vehicles leaving the site carrying earth and mud in their wheels in such a quantity which could cause a hazard to the road system in the locality. The approved wheel washing facility shall be installed immediately before any other construction works commence on site. Thereafter, the wheel washing facility shall be retained in effective working order for the duration of construction (including all phases), until all construction activity associated with the full development is completed on site unless otherwise agreed in writing by the Planning Authority.

5(R) In the interest of road safety and to ensure that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which will cause a nuisance or hazard to the road system in the locality.

6(C) Prior to the commencement of development on site, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Planning Authority (in consultation with the Council as Roads Authority). The CTMP shall describe the methodology for the movement of construction traffic to and from the site and shall provide confirmation that all construction vehicles associated with the development when statutory shall be parked within the site and not on any adjacent streets or road networks. The approved CTMP shall thereafter be implemented on site and will be adhered to for the duration of construction (including all phases), until all construction activity associated with the full development is completed on site.

6(R) In the interest of road safety.

7(C) Prior to the occupation of the first dwellinghouse within the development site, the two bus stops located on A70 (Naptan reference numbers: 6190472 and 6190473) shall be upgraded to incorporate Real Time Passenger Information screens (RTPI) compatible with the existing Ayrshire Real Time system. This shall include supply and installation of an isolatable power source within a power termination pillar, the required ducting, a post retention socket compatible with a Trueform Elite pole, a Trueform Elite pole, and a 6 line bann display or equivalent, the cost of which will be met by the applicant/developer. The applicant/developer shall also be responsible for providing 5 years maintenance cover for the screens. Prior to the commencement of development on site, details of the designs, locations and specifications of the RTPI screens associated with the bus stop(s) shall be submitted to and approved in writing by the Planning Authority (in consultation with the Council as Roads Authority).

7(R) To enhance and improve existing accessible public transport facilities to ensure they are sufficient to support additional demand as a result of the proposed development.

8(C) The presence of any previously unencountered contamination that becomes evident during the development of the site shall be reported to the Planning Authority in writing within one week, and work on the affected area shall cease with immediate effect. At this stage, if requested by the Planning Authority, an investigation and risk assessment shall be undertaken and an amended remediation scheme shall be submitted to and approved by the Planning Authority prior to the re-commencement of works in the affected area. The approved details shall be implemented as approved.

8(R) To ensure all unencountered contamination within the site is dealt with appropriately.

9(C) Prior to the commencement of development on site, details of measures to protect trees and hedgerows located within and adjacent to the site (including those forming part of the Ancient Woodland Inventory Designation to the northern, eastern and southern site boundary) shall be submitted for the written approval of the Planning Authority. The trees and hedgerows shall be protected during the course of development by the erection of fencing in accordance with British Standard BS 5837(2012) 'Trees in Relation to Construction', or by such other means of protection deemed necessary and shall be agreed in advance in writing with the Planning Authority. No changing of levels,

movement or parking of vehicles, storage of building materials, machinery, plant equipment or soil/aggregate shall take place within the protected areas established pursuant to this condition. The development shall be undertaken in accordance with the approved tree protection details and shall be implemented before any other construction works commence on site. Thereafter, the measures agreed shall be maintained as such for the duration of the construction works until the development is complete on site.

9(R) In order to ensure no damage is caused to trees within or adjacent to the site during development operations.

10(C) All construction work and activity on site relevant to the development shall be carried out in strict accordance with the recommendations and mitigation measures outlined within Section 5.2 of the approved 'Extended Phase 1 Habitat Survey' (Wild Surveys Ltd, Dated 23rd February 2022). These measures and recommendations shall remain in effect until all construction work associated with the development is complete on site.

10(R) In the interests of protecting local wildlife and minimising impact on ecology.

11(C) Further to condition 10 above and the mitigation measures and recommendations outlined within Section 5.2 of the approved 'Extended Phase 1 Habitat Survey' (Wild Surveys Ltd, Dated 23rd February 2022), all ground and vegetation clearance works shall take place out with the main breeding bird season (specifically March to August, inclusive). If this is not possible, and works are due to take place between March and August, then a suitably qualified ornithologist/ecologist shall be engaged and appointed to undertake surveys and scrub vegetation and nesting bird checks and advise of any actions required to protect birds immediately prior to any scrub or vegetation removal works commencing on site.

11(R) In the interest of protecting local wildlife and to advise the applicant/contractor/developer of any bird nesting activity and any actions required to protect birds.

12(C) Prior to the occupation of the 25th dwellinghouse within the development site, evidence that the upgraded and modified pumping station has been formally vested and adopted by Scottish Water shall be submitted to and approved in writing by the Planning Authority (in consultation with the Council's Environmental Health Service). Until such time as this has been received and in the interim period until formal adoption by Scottish Water has been achieved, the upgraded and modified pumping station shall be maintained in efficient working order in line with the approved 'Drainage and Waste Report and Strategy (Milestone Developments, dated 09/09/22)' and 'Hope Homes Letter Regarding Pumping Station (Hope Homes, dated 21/09/22)'.

12(R) To ensure that the existing pumping station is appropriately maintained and serviced and to ensure that it is accepted as being of sufficient capacity to support the proposed development.

13(C) Notwithstanding approved drawing 'Site Phasing Plan (Drawing No. AL(00)04 Rev 2)' hereby approved, prior to the completion of the construction of the 8th dwelling unit within phase 2 of the development site, the approved play area scheme including all associated play equipment shall be installed and completed in its entirety in line with approved plan 'Play Park Layout (Drawing No. AL(00)09 Rev 1)'. All matters relating to the proposed play area facility including; the design and manufacture of the equipment, the installation of the equipment, the installation of the safer-surfacing, and the maintenance and repair programme following completion shall all be in compliance in accordance to the British and European Play Standards BS EN 1176 and BS EN 1177. No alterations or deviations to the approved and installed play area scheme shall be made without the further written consent of the Planning Authority.

13(R) To ensure that the play area scheme is installed and completed in a timely manner to serve future residents of the development.

14(C) Unless otherwise agreed in writing by the Planning Authority, the soft landscaping scheme for the site approved as shown on approved drawings 'Landscape Proposals' (Drawing Nos. Sheet 1, 2, 3, 4 and 5)' shall be implemented as approved prior to the

completion of the construction of the last dwellinghouse within each respective phase of development in accordance with approved drawing 'Site Phasing Plan (Drawing No. AL(00)04 Rev 2)'. Once implemented, the soft landscaping scheme shall be maintained as such in line with the approved maintenance arrangements. Any trees, shrubs, plants or grass forming part of the approved landscape scheme which die, are removed or become seriously damaged or diseased, within a period of 5 years from the date of their planting, shall be replaced (at no cost to the Council) in line with good horticultural practice with others of similar sizes and species unless the Planning Authority gives written approval to any variation.

14(R) To ensure that the soft landscaping scheme is implemented in a timely manner, in the interests of visual amenity of the site.

15(C) Prior to the commencement of development on site, details and plans demonstrating how the identified areas of public open space as shown on approved plan 'Site Plan Proposed (Drawing No. AL(00)03 Rev 4)' shall function and operate shall be submitted to and approved in writing by the Planning Authority. As part of this, this shall include any details and specifications of park/street furniture, cycle storage/parking, walkways and path connections, lighting, art or any other features to be installed in the public open space areas. Thereafter, the public open space areas shall be implemented in accordance with the approved details and within the timescales set out in Condition 14 above. No alterations or deviations from the approved public open space arrangements shall be undertaken without the further written consent of the Planning Authority.

15(R) To ensure that the formal open spaces provide meaningful and usable areas which align with the requirements of the relevant planning guidance.

16(C) Further to condition 15 above, other than where they share mutual boundaries with existing and proposed dwelling plots, no fencing or other means of enclosure shall be erected around the any of the areas of open space within the development site as shown on approved 'Site Plan Proposed (Drawing No. AL (00)03 Rev 04)' unless otherwise agreed in writing by the Planning Authority. This includes the area of public open space situated on the northwest corner of the application site nearest the pedestrian linkage to Manse Road and the area of open space which surrounds the play area on the southwestern corner of the development site.

16(R) To ensure all areas of open space approved as part of the development are accessible and usable to future occupants of the development.

17(C) Prior to the commencement of development on site, full details of the design and location of any retaining walls and other retention features required as part of the development shall be submitted to and approved in writing by the Planning Authority. Thereafter, the agreed retention details shall be implemented prior to the occupation of any associated houses or completion of associated open space area. No alterations or deviations from the approved retention arrangements shall be undertaken without the further written consent of the Planning Authority.

17(R) To ensure that any areas of retention are appropriately designed and treated so that they are commensurate to the development site.

18(C) The development hereby approved shall be constructed strictly in accordance with the finished site levels and finished floor levels as shown on approved plan 'Vertical Geometry (Drawing No. 21228-100-101)'. Any alterations or deviations to these finished site and floor levels shall first be agreed in writing with the Planning Authority.

18(R) In the interests of residential amenity.

#### **List of Determined Plans:**

Drawing - Reference No (or Description): AL (00) LOC 02

#### **Background Papers:**

- Application form, plans and supporting documents.
- National Planning Framework 4 (NPF4).

- South Ayrshire Local Development Plan 2 (LDP2).
- Representations received.
- 17/01115/PAN - Proposal of application notice for the erection of residential development with associated access road, open space, landscaping and other required infrastructure – Approved October 2017.
- 18/00585/PPPM - Planning permission in principle for the erection of residential development with associated access roads, open space, landscaping and infrastructure – Approved June 2019.
- 22/00779/MSCM - Approval of matters specified in conditions for erection of 53 residential dwellings with associated access road, open space landscaping and infrastructure – Approved November 2022.
- 25/00425/APP - Variation of House Types on Plots 9, 39, 13 and 15 of Planning Permission Reference 22/00779/MSCM – Approved August 2025.

**Integrated Impact Assessment:**

The consideration of this planning application sits within a policy framework of the Council's Local Development Plan 2 and National Planning Framework 4. These have been the subject of Equalities Impact Assessments which considered how the policies may impact on protected characteristics. Therefore, no separate Integrated Impact Assessment is required.

The meeting ended at 10:30 a.m.

## South Ayrshire Council

### List of Planning Applications for Regulatory Panel (Planning) Consideration on 5 February 2026

| List No. | Reference Number                                                                                   | Location                                                                 | Development                                                                                                                                                   | Applicant                         | Recommendation                                                                                               |
|----------|----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------|
| 1.       | 25/00689/APP<br>David Clark<br><br>(Objections)<br><br><a href="#">(Application Summary)</a>       | Townend House<br>Townend Drive<br>Symington<br>South Ayrshire<br>KA1 5QL | Alterations to Townend House and formation of car park and associated hardstandings                                                                           | Enhance Healthcare Ltd            | Approval with Condition(s)                                                                                   |
| 2.       | 25/00765/APP<br>Emma McKie<br><br>(Objections)<br><br><a href="#">(Application Summary)</a>        | 8B New Bridge Street<br>Ayr<br>South Ayrshire<br>KA7 1JX                 | Change of use of dwellingflat to form short term let                                                                                                          | Mr Kevin McKay                    | Approval with Condition(s)                                                                                   |
| 3.       | 25/00364/MDO<br>Alastair McGibbon<br><br>(Objections)<br><br><a href="#">(Application Summary)</a> | Land At Greenan<br>Dunure Road<br>Ayr<br>South Ayrshire                  | Modification of planning obligation to require repayment of sums not spent on delivery of education infrastructure related to the development (09/00683/OUT)  | Mactaggart & Mickel Homes Limited | Approval. The decision will be reported to Cabinet for noting due to financial implications for the Council. |
| 4.       | 25/00372/MDO<br>Alastair McGibbon<br><br>(Objections)<br><br><a href="#">(Application Summary)</a> | Land At Greenan<br>Dunure Road<br>Ayr<br>South Ayrshire                  | Modification of planning obligation to require repayment of sums not spent on delivery of education infrastructure related to the development (18/00311/FURM) | Mactaggart & Mickel Homes Limited | Approval. The decision will be reported to Cabinet for noting due to financial implications for the Council. |



## **REGULATORY PANEL: 5 FEBRUARY 2026**

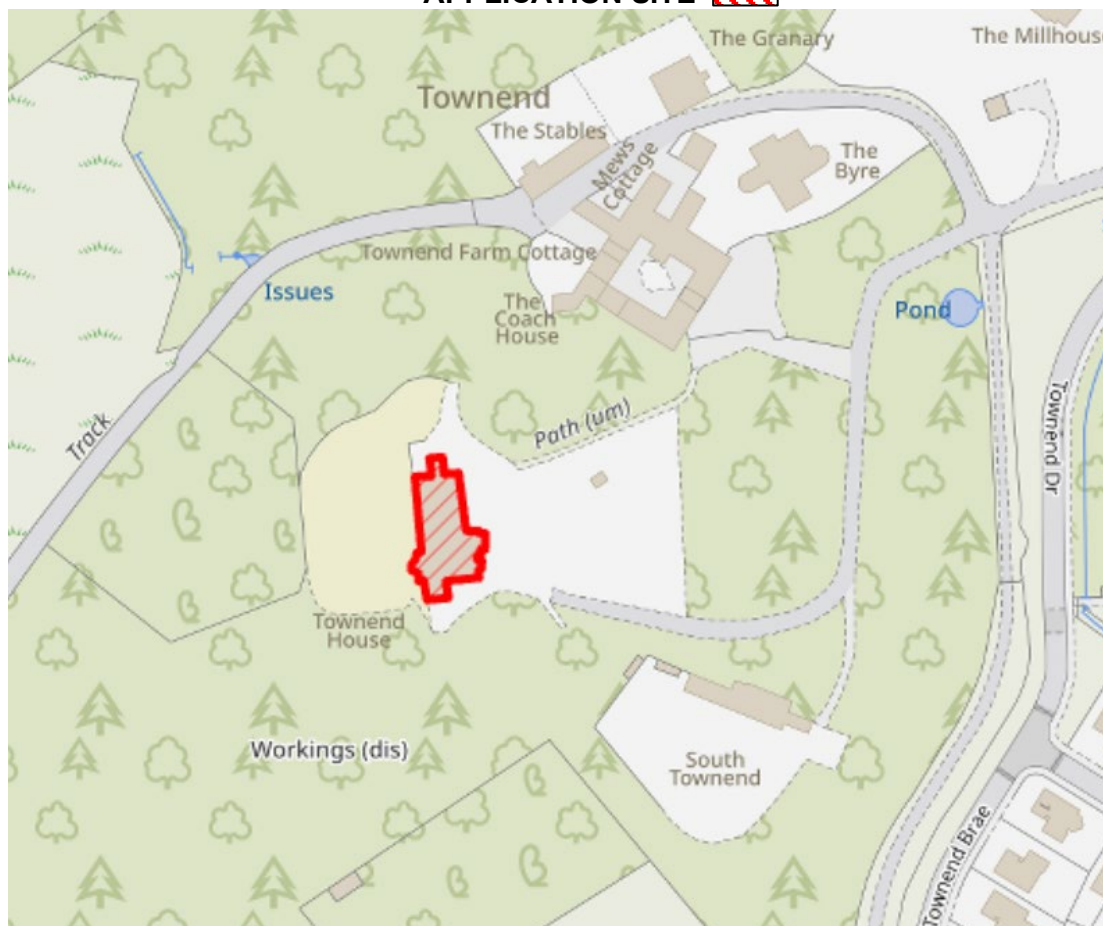
### **REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT**

**25/00689/APP**

**TOWNEND HOUSE TOWNEND DRIVE SYMINGTON SOUTH AYRSHIRE KA1 5QL**

#### **Location Plan**

**APPLICATION SITE** 



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

<https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T4KKOWBDIRP00&activeTab=summary>

#### **Summary**

Planning permission is sought for external alterations to Townend House, a mid-19th century Category B Listed building located within the Townend Estate to the south-west of Symington, together with the formation of a car park within its landscaped grounds. The application is retrospective and relates primarily to alterations to cast-iron rainwater goods and the creation of a surfaced parking area on previously grassed land. The use of the building as a Class 8 residential institution is considered to remain unchanged, and no change of use is proposed.

The building comprises long-established residential accommodation with associated grounds. No alterations to the internal layout of the building form part of this application. The proposal solely seeks permission for the external drainage works and the formation of the parking area.

The application has attracted a significant number of objections, largely relating to the perceived future use of the building, traffic, residential amenity, biodiversity impacts, and procedural matters. These concerns have been considered in the context of relevant planning policy and the physical works proposed by this application. It is considered that none of the objections raise material planning reasons to warrant refusal of the application.

The proposed development has been assessed against the provisions of National Planning Framework 4 and South Ayrshire Local Development Plan 2. The works are considered to be acceptable and, subject to appropriate landscaping, biodiversity, and lighting conditions, are unlikely to result in unacceptable impacts on the listed building, its setting, or the wider locality. Accordingly, the application is recommended for approval subject to conditions.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

### REGULATORY PANEL: 5 FEBRUARY 2026

|                         |                                                                                            |
|-------------------------|--------------------------------------------------------------------------------------------|
| <b>SUBJECT:</b>         | <b>PLANNING APPLICATION REPORT</b>                                                         |
| <b>APPLICATION REF:</b> | <b>25/00689/APP</b>                                                                        |
| <b>SITE ADDRESS:</b>    | <b>Townend House<br/>Townend Drive<br/>Symington<br/>South Ayrshire<br/>KA1 5QL</b>        |
| <b>DESCRIPTION:</b>     | <b>Alterations to Townend House and formation of car park and associated hardstandings</b> |
| <b>RECOMMENDATION:</b>  | <b>Approval with conditions</b>                                                            |

#### APPLICATION REPORT

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended). The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

#### Key Information:

- The application was received on 23 October 2025.
- The application was validated on 28 October 2025.
- The case officer visited the application site on 23 October 2025.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was carried out by the Planning Authority on 29 October 2025.
- No Site Notice was required.
- No Public Notice in the Local Press was required.

#### **1. Proposal:**

The application site comprises Townend House, a mid-19th-century Category B Listed building located to the south-west of Symington within the Townend Estate. The application site includes Townend House itself together with its landscaped grounds. Access is taken via a private estate road shared with several other properties. Areas of woodland within the wider grounds are identified within the Ancient Woodland Inventory.

Townend House has most recently operated as a residential care facility (Class 8 of the Use Classes Order) providing long-term accommodation and support for adults with a range of physical and learning disabilities and associated care needs.

Planning permission is sought for alterations to Townend House and for the formation of a car park within its grounds. The application is retrospective insofar as a number of the external alterations to the listed building have already been undertaken, and the car park area has also been constructed on site.

The external works primarily relate to alterations to the cast-iron drainage outlets and associated ventilation serving the building. These include the installation of new cast-iron downpipes, the repositioning of existing outlets, and the introduction of new or revised ventilation terminals to serve internal services. Ancillary works comprise making-good to areas of masonry where previous rainwater goods and vents had been removed or altered.

The proposal also includes the formation of a vehicular parking area within the grounds of Townend House. The car park is shown on the submitted site layout plan and consists of a surfaced parking area located to the east of Townend House.

#### Background information

Historically, the site has operated as a Class 8 residential institution under the Use Classes Order (Planning (Scotland) Act), providing long-term residential accommodation and support for adults with a range of physical and learning disabilities and associated care needs. Most recently, Townend House has operated as a residential care facility delivering long-term support for adults with a range of physical and learning disabilities and associated care needs.

It is understood that Townend House is proposed to be used as an alcohol and drug rehabilitation facility. This prospective use has generated significant public interest and correspondence, with numerous objections received relating primarily to the intended use of the building. However, in planning terms, this proposed use is also considered to fall within Class 8. Residents attending the facility would do so voluntarily, and the accommodation would continue to operate as a residential institution. The Planning Service has advised the applicant that a Certificate of Lawfulness (Proposed Development) could be submitted to formally establish the proposed use, although this is not mandatory. Based on the information available, the proposal does not constitute a change of use for planning purposes.

Accordingly, the purpose of this planning application is to consider solely the external alterations to Townend House - primarily the removal, repositioning, and reinstatement of cast iron drainage outlets - and the formation of a car park to the south-east of the building. While the prospective use has been a focal point of public concern, it is not a material consideration in the determination of this application. The assessment of the proposal will therefore focus exclusively on the physical works to the building's exterior and the associated car parking provision.

The application requires to be reported to the Council's Regulatory Panel, as more than ten competent written objections have been received, together with an objection from the Community Council, who express a different view to the recommendation to approve the application subject to conditions.

## **2. Consultations:**

**Ayrshire Roads Alliance** - offer no objections.

**Environmental Health** - offer no objections.

## **3. Submitted Assessments/Reports:**

In assessing and reporting on a Planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations.

None.

## **4. S75 Obligations:**

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development.

None.

## **5. Scottish Ministers Directions:**

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

None.

## **6. Representations:**

34 representations have been received, 34 of which object to the proposed development. All representations can be viewed online at <https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T4KKOWBDIRP00&activeTab=summary>

The issues raised by Representees can be summarised as follows.

### **Change of Use / Nature of Facility**

- Residents express concern that the building is changing from a care home for adults with learning difficulties to a drug and alcohol rehabilitation facility.
- It is alleged that future occupants may include individuals recently released from prison or with complex needs.
- Concerns are raised regarding potential risks to the safety and security of children, families, and vulnerable residents.
- Fears have been expressed regarding the potential for increased crime, anti-social behaviour, and disturbance.

### **Impact on Residential Amenity**

- Anticipated increase in traffic along a narrow, private, and unlit access road.
- Potential adverse impacts arising from noise, light pollution (including floodlighting and car park lighting), and loss of privacy.
- Loss of informal recreational space and disturbance to wildlife, including deer, foxes, bats, and bird species.
- Perceived erosion of the quiet, rural, and conservation character of the village.

### **Car Park and Access Concerns**

- Objection to the construction of a new car park as opposed to resurfacing existing hardstanding areas.
- Removal of mature trees and the potential impact on biodiversity, including bats.
- Increased vehicle movements, deterioration of the access road, and the associated maintenance burden on residents.
- Concerns regarding inadequate drainage provision and an increased risk of flooding arising from the new car park.

### **Listed Building and Heritage Concerns**

- Internal alterations, including the installation of en-suite bathrooms and associated structural works, are considered by residents to be excessive.
- External works, including the installation of plastic vents, drainage pipes, and other alterations, are perceived as harmful to the character and appearance of the listed building.
- A lack of clarity is expressed as to whether the requisite Listed Building Consent has been obtained for the works undertaken.

### **Procedural and Transparency Concerns**

- Allegations that retrospective works have been carried out without prior planning/ listed building consent.
- Concerns regarding the absence of consultation with local residents prior to the commencement of works or the alleged change of use.
- Claims within the application are alleged to be misleading in relation to site ownership and land use.
- Doubts are raised as to whether the appropriate planning procedures have been followed, including matters relating to risk assessment and public notification.

### **Practical Impacts on Residents**

- Concerns regarding potential property devaluation, failed property sales, and wider impacts on community wellbeing.
- Queries regarding the adequacy of existing water supply and drainage infrastructure to accommodate additional en-suite facilities.
- General anxiety relating to public safety and the absence of a prior risk assessment.

The matters raised by the representees are considered elsewhere in this report.

In accordance with the Council's procedures for the handling of Planning applications the opportunity exists for Representees to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to these representations is included within the assessment section of this report.

## **7. Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

On 13 February 2023, Scottish Ministers published and adopted National Planning Framework 4 (NPF4). NPF4 sets out the Scottish Ministers position in relation to land use planning matters and now forms part of the statutory development plan, along with the South Ayrshire Local Development Plan 2 (LDP2) (adopted August 2022).

Sections 25(1) and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. The application is determined on this basis.

Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); Section 24(3)). NPF4 was adopted after the adoption of LDP 2, therefore NPF4 will prevail in the event of any incompatibility.

#### **(i) National Planning Framework 4 (NPF4)**

The following policies of NPF4 are considered particularly relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-planning-framework-4/pages/12/index.aspx):

Policy 2 – Climate mitigation and adaptation

Policy 3 – Biodiversity

Policy 6 – Forestry, woodland and trees

Policy 7 – Historic assets and places

The provisions of NPF4 must, however, be read and applied as a whole, and as such, no policies should be read in isolation. The application has been considered in this context.

As assessment of the proposals against the provisions of NPF4 is set out below.

(ii) South Ayrshire Local Development Plan 2

The following policies of the South Ayrshire Local Development Plan 2 are relevant in the assessment of the application and can be viewed in full online at [Local development plan 2 - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://www.south-ayrshire.gov.uk/local-development-plan-2):

- o Strategic Policy 1: Sustainable Development;
- o Strategic Policy 2: Development Management;
- o LDP Policy: Historic Environment;
- o LDP Policy: Woodland and Forestry;
- o LDP Policy: Preserving trees; and
- o LDP Policy: Land use and Transport.

The provisions of the Adopted South Ayrshire Local Development Plan 2 must, however, be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

An assessment of the proposals against the provisions of Local Development Plan 2 is set out below.

(iii) Planning History

The relevant planning history of the site is summarised as follows:

- 08/00039/FUL – Alterations to the existing building, including the sub-division of bedrooms. *Approved.*
- 08/01318/LBC – Internal alterations to the listed building. *Approved.*
- 22/00751/APP – Alterations and extension to the existing care home. *Approved.*
- 22/00752/LBC – Alterations and extension to the listed building. *Approved.*
- 25/00690/LBC – Listed Building Consent for cast iron works, submitted alongside the current planning application. *Pending consideration.*

In respect of the 2022 approvals, it is noted that development has commenced on site, with foundations laid for the approved extension. It appears, however, that these works have since ceased, with subsequent activity focused on works to Townend House itself.

In addition, unauthorised internal works have been undertaken within Townend House. These matters are currently being progressed by the Planning Authority through the enforcement process, and a further retrospective Listed Building Consent application is anticipated to be submitted in due course in connection with those works.

(iv) Objector Concerns

The concerns of the objectors are summarised and consider as follows: -

**Change of Use / Nature of Facility**

Objection: Residents express concern that the building is changing from a care home for adults with learning difficulties to a drug and alcohol rehabilitation facility. It is alleged that future occupants may include individuals recently released from prison or with complex needs. Concerns are raised regarding potential risks to the safety and security of children, families, and vulnerable residents. Fears have been expressed regarding the potential for increased crime, anti-social behaviour, and disturbance.

Response: The current application does not propose a change of use. Townend House remains within Class 8 (Residential Institutions – Care Home). The planning assessment is therefore restricted to the physical works proposed, including minor external alterations and the formation of a car park. Matters relating to the client group, operational practices, or perceived future use are not material to the determination of this application.

### **Impact on Residential Amenity**

**Objection:** Anticipated increase in traffic along a narrow, private, and unlit access road. Potential adverse impacts arising from noise, light pollution (including floodlighting and car park lighting), and loss of privacy. Loss of informal recreational space and disturbance to wildlife, including deer, foxes, bats, and bird species. Perceived erosion of the quiet, rural, and conservation character of the village.

**Response:** The planning assessment is confined to the land-use and physical effects arising from the proposed development. In terms of traffic impacts, the lawful use of Townend House already generates vehicular movements, and the proposed car park is intended to manage existing parking demand. No alterations to the access are proposed, and the level of additional traffic on the private access road is not considered to be significant in highway or amenity terms.

With regard to noise, light and privacy, the proposal does not introduce any late-night operational use beyond that already associated with the established use of the building. External lighting proposed, including any car park or security lighting, can be controlled by condition to ensure its appropriateness so as to prevent light spill, glare and disturbance to nearby residents or wildlife. The layout of the car park is such that there is no direct overlooking into neighbouring dwellings, and separation distances are sufficient to safeguard residential privacy.

It is acknowledged and accepted that the loss of the existing grassed area is disappointing and represents a change to the character of this part of the site. However, this loss must be considered in the context of the operational requirements of the established use of Townend House and the benefits of providing more formalised parking to prevent uncontrolled and potentially more harmful encroachment onto wider green areas. While the loss of green space is regrettable, it is not, in itself, of a scale or nature sufficient to justify refusal of the application, particularly where mitigation can be secured through planning conditions. A comprehensive landscaping scheme, including replacement planting, boundary treatment and biodiversity enhancement measures, can be required by condition to ensure that the visual, environmental and ecological quality of the site is appropriately mitigated and, where possible, enhanced.

In terms of ecology, no evidence has been submitted to demonstrate that the works would result in unacceptable harm to protected species such as bats or to local wildlife populations including birds and mammals. Nevertheless, appropriate ecological safeguards and habitat enhancement measures can be incorporated through planning conditions where necessary.

Finally, while it is acknowledged that residents place a high value on the quiet, rural and conservation character of the village, the scale and nature of the proposed works are limited and do not introduce a new or intensified principal use on the site. Subject to the proposed mitigation and conditions, the development is not considered to result in an unacceptable erosion of the established character of the area.

### **Car Park and Access Concerns**

**Objection:** Concerns are raised to the construction of a new car park rather than resurfacing existing hardstanding areas. Concerns include the potential removal of mature trees, impacts on biodiversity (including bats), increased vehicle movements, deterioration of the access road and the associated maintenance burden on residents, together with concerns regarding surface water drainage and a potential increased risk of flooding.

**Response:** It is acknowledged that some damage has occurred to a tree located in close proximity to the car park during the course of works. Concerns have also been raised regarding the potential felling of other trees within the wider grounds of the Townend Estate. The current application, however, does not propose the removal of any trees, and no tree felling forms part of the approved development.

The affected tree is not protected by a Tree Preservation Order nor is it located within a Conservation Area. While parts of the wider estate are identified within the Ancient Woodland Inventory, this designation does not, in itself, require the Planning Authority to give written consent for works or confer statutory protection on individual trees. Planning control is therefore limited to the direct physical impacts of the car park works, and any tree damage occurring outside the scope of the approved development falls outwith the powers of the Planning Authority under this application. The integrity of the woodland resource is not considered to be materially affected.

Mitigation can be secured through planning conditions, including landscaping, replacement planting, tree protection during any remaining works, and biodiversity enhancement measures to ensure that any localised damage is addressed and the overall ecological value of the site is maintained.

The application site is not identified within the SEPA Flood Risk Map as being at risk from river, coastal, or surface water flooding. Surface water drainage is therefore not considered to require control by condition and is instead addressed by advisory note, to ensure runoff is appropriately managed and does not adversely affect neighbouring land or the private access road.

Traffic generation associated with the lawful use of the building and the future maintenance of the private access road fall outwith the scope of planning control. The Ayrshire Roads Alliance has raised no objection to the proposal. Proportionate landscaping and biodiversity enhancement measures can be secured by condition to mitigate the loss of grassed areas, offset localised impacts, and support the wider ecological value of the site.

### **Listed Building and Heritage Concerns**

Objection: Internal alterations, including the installation of en-suite bathrooms and associated structural works, are considered by residents to be excessive. External works, including the installation of plastic vents, drainage pipes, and other alterations, are perceived as harmful to the character and appearance of the listed building. A lack of clarity is expressed as to whether the requisite Listed Building Consent has been obtained for the works undertaken.

Response: The external works proposed as part of this planning application primarily relate to alterations to the cast-iron drainage outlets and associated ventilation serving the building. Internal works are not part of this planning application and are considered separately under Listed Building legislation. No significant harm to the character or appearance of the listed building is identified as part of this assessment. The separate Listed Building Consent process addresses any works requiring heritage consent.

### **Procedural and Transparency Concerns**

Objection: Allegations that retrospective works have been carried out without prior planning consent. Concerns regarding the absence of consultation with local residents prior to the commencement of works or the alleged change of use. Claims within the application are alleged to be misleading in relation to site ownership and land use. Doubts are raised as to whether the appropriate planning procedures have been followed, including matters relating to risk assessment and public notification.

Response: The retrospective nature of the works is noted. The planning system allows for the assessment of retrospective applications in the same manner as prospective proposals. While pre-application consultation with residents may have been limited, the current application enables the Council to impose appropriate conditions to mitigate any impacts, including landscaping, biodiversity enhancement, and lighting control. Matters relating to ownership or procedural engagement beyond statutory requirements are not material planning considerations.

### **Practical Impacts on Residents**

Objection: Concerns regarding potential property devaluation, failed property sales, and wider impacts on community wellbeing. Queries regarding the adequacy of existing water supply and drainage infrastructure to accommodate additional en-suite facilities. General anxiety relating to public safety and the absence of a prior risk assessment.

Response: These matters largely relate to the perceived use of the building rather than the physical works proposed. Planning assessment is confined to the material impacts of the development, including the car park, hardstanding, and minor external works. Issues relating to property values, water infrastructure beyond the site boundary, or public safety associated with future operational practices fall outwith the scope of the planning assessment.

#### **(v) Impact on the Locality**

Planning permission is required for the alterations to Townend House and the formation of a car park within its grounds. The assessment of the current application is required to consider the physical impacts of these proposals on the locality, having regard to the development plan, and other material considerations, including representations received and consultation responses. It is important to emphasise that the application does not propose a change of use. Accordingly, the assessment and planning decision focus exclusively on the physical works and their effects on the grounds and the surrounding environment.

Matters relating to Listed Building Consent will be considered separately as part of the assessment of the Listed Building application(s) submitted (see Planning History above).

Townend House, a mid-19th-century Category B Listed building, is located within landscaped grounds that include areas of woodland identified in the Ancient Woodland Inventory. The property has a long-established lawful use as a Class 8 residential institution, most recently operating as a care facility. The proposed works include the removal, repositioning, and reinstatement of cast-iron drainage outlets and the formation of a surfaced car park to the east of the building. These works have been carried out retrospectively. It is disappointing that the applicant undertook these works without dialogue with neighbours or the Council, resulting in retrospective enforcement implications and public concern.

The car park works, while described in the application as “resurfacing,” have involved the conversion of a previously grassed embankment into a hardstanding area. This has resulted in the loss of grassed amenity and potential habitat, which is regrettable. In line with Policy 3 (Biodiversity) of NPF4 and LDP2 policies on woodland and trees, appropriate mitigation in the form of landscaping and biodiversity enhancements can be secured through conditions, providing compensatory ecological benefit and ensuring that the development is proportionate to its scale.

Concerns have been raised regarding trees and woodland, including potential damage during car park formation. The application does not propose the felling of any trees, and while minor damage to one tree is acknowledged, the integrity of the Ancient Woodland Inventory is not materially compromised. Any mitigation measures would be limited to landscaping improvements consistent with the scale of the car park and the surrounding grounds, in accordance with Policy 6 (Forestry, Woodland and Trees) of NPF4 and LDP2 provisions on tree preservation.

The external alterations to Townend House are minor and largely relate to rainwater management. While retrospective, these works are not considered to materially harm the character or setting of the listed building, in accordance with Policy 7 (Historic Assets and Places) of NPF4 and LDP2 policies on the historic environment. Internal works, such as the installation of en-suite facilities, fall outside the scope of this application.

Issues regarding traffic, road safety, or potential operational impacts associated with the proposed use of Townend House as a rehabilitation facility are not material to the assessment, as the lawful use of the building remains Class 8. Similarly, concerns regarding perceived increases in noise, lighting, or general amenity are either outside planning control or can be mitigated by conditions where associated with the physical works (e.g., lighting associated with the car park).

Overall, while it is disappointing that the applicant undertook retrospective works and did not engage proactively with the local community, the proposed alterations to the Townend House and the formation of the car park are modest and proportionate. The application seeks to regularise the development, and planning conditions can be attached to secure biodiversity and landscaping mitigation, to ensure that the physical works respect the character of the listed building, its grounds, and the wider locality. On balance, the impact on the locality is acceptable and in accordance with the relevant provisions of NPF4 (Policies 2, 3, 6, and 7) and South Ayrshire LDP2 (Strategic Policies 1 and 2, Historic Environment, Woodland and Forestry, Preserving Trees, and Land Use and Transport).

## **8. Conclusion:**

The application seeks planning permission for alterations to Townend House, a Category B Listed building, and for the formation of a surfaced car park within its grounds. The works are retrospective, involving external alterations to rainwater goods/ vents and the creation of a hardstanding area on previously grassed land. While the proposals have generated public concern, particularly regarding the perceived change of use and operational impacts, it is considered that Townend House remains within Class 8 (Residential Institutions – Care Home). Accordingly, the use of the building and potential client group are not material considerations in the determination of this application.

The external works are relatively minor and do not materially affect the character or setting of the listed building. The car park, although constructed on a previously grassed embankment, can be mitigated through appropriate landscaping and biodiversity enhancements. Overall, the integrity of the Ancient Woodland Inventory is considered to be maintained.

On balance, the proposed alterations and car park formation are proportionate, acceptable in design, and sympathetic to the character of the listed building and its grounds. Appropriate conditions can secure biodiversity, landscaping, and lighting mitigation, ensuring that the works integrate with the surrounding locality. The proposals are therefore considered to accord with the relevant provisions of NPF4 (Policies 2, 3, 6, and 7) and South Ayrshire LDP2 (Strategic Policies 1 and 2; Historic Environment; Woodland and Forestry; Preserving Trees; Land Use and Transport). Approval of the application, subject to conditions, is recommended.

## **9. Recommendation:**

It is recommended that the application is approved subject to the following conditions:

- (1C) That the development hereby permitted must be begun within three years of the date of this permission.
- (1R) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.
- (2C) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (2R) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3C) That within three months of the date of this permission, a landscaping and biodiversity mitigation scheme shall be submitted to and approved in writing by the Planning Authority. This shall include planting, habitat enhancements, and measures to mitigate the loss of grassed areas. The approved scheme shall be implemented and maintained in perpetuity.
- (3R) To offset the ecological and visual impact of the car park.
- (4C) That no external lighting shall be installed in association with the car park hereby approved unless a lighting scheme has first been submitted to and approved in writing by the Planning Authority. Any approved lighting shall be installed and maintained in accordance with the approved details, for the lifetime of the development.
- (4R) To safeguard residential amenity, reduce light pollution, and protect ecological interests in the event that external lighting is installed.

### **9.1 Advisory Notes:**

- (1) The applicant is advised to ensure that surface water from the car park does not adversely affect the private access road or neighbouring properties. Any drainage measures required beyond the site boundary are the responsibility of the landowners concerned.

### **9.2 List of Determined Plans:**

Drawing - Reference No (or Description): AE(00)010  
Drawing - Reference No (or Description): AE(00)011  
Drawing - Reference No (or Description): AE(00)012  
Drawing - Reference No (or Description): AE(00)013  
Drawing - Reference No (or Description): AE(00)014  
Drawing - Reference No (or Description): AE(00)015  
Drawing - Reference No (or Description): AE(00)016  
Drawing - Reference No (or Description): AE(00)017  
Drawing - Reference No (or Description): AE(00)00L Rev A  
Drawing - Reference No (or Description): AL(00)0CP

**9.3 Reason for Decision (where approved):**

The proposed external alterations to Townend House and the formation of a car park are not considered to materially harm the character, appearance, or setting of the Category B Listed building or its landscaped grounds. The development accords with the relevant provisions of National Planning Framework 4 and South Ayrshire Local Development Plan 2.

**Background Papers:**

1. Application form, plans and submitted documentation.
2. Representations.
3. Adopted South Ayrshire Local Development Plan (LDP2).
4. National Planning Framework 4 (NPF4).
5. Use Classes Order (Planning (Scotland) Act)

**Integrated Impact Assessment:**

The consideration of this planning application sits within a policy framework of the Council's Local Development Plan 2 and National Planning Framework 4. These have been the subject of Equalities Impact Assessments which considered how the policies may impact on protected characteristics. Therefore, no separate Integrated Impact Assessment is required.

**Person to Contact:**

David Clark, Co-ordinator (Development Management) - Telephone 01292 616 118

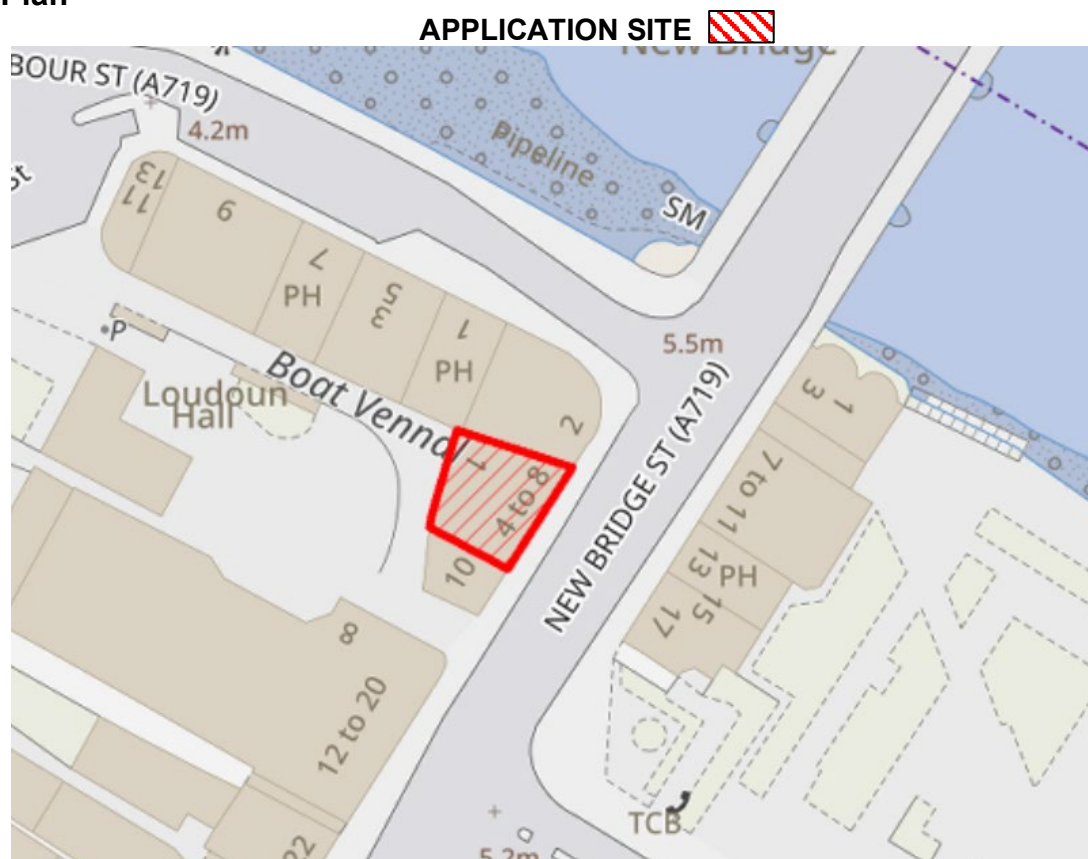
**REGULATORY PANEL: 05 FEBRUARY 2026**

**REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT**

**25/00765/APP**

**8B NEW BRIDGE STREET AYR SOUTH AYRSHIRE KA7 1JX**

**Location Plan**



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

<https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T5WSSJBDJEQ00&activeTab=summary>

**Summary**

Planning permission is sought for the change of use of a dwelling flat to short-term letting accommodation at 8B New Bridge Street, Ayr. The application site comprises a two-bedroom second-floor flat within a three and a half storey building. The application site shares a communal entrance with two other residential properties. The building is located within Ayr town centre and lies within the Ayr Central Conservation Area. The building is also category B-listed. There are not known to be any other short-term lets operating within the building.

The flat comprises a hall, kitchen, living room/dining room, two bedrooms, and a bathroom. No alterations to the internal layout or external appearance of the building are proposed; the application solely seeks permission for the change of use to short-term letting purposes in accordance with the Scottish short-term letting licensing scheme. The application is supported by an Operational Statement which sets out proposed management arrangements including a maximum occupancy of four guests, house rules, noise sensors installed within property, in person check in, and cleaning arrangements between stays.

The application has attracted two objections, one of which from the Fort, Seafield and Wallacetown Community Council, raising concerns regarding over-provision of short-term lets, shared access and bin facilities, the loss of long-term housing, and the loss of amenity for neighbouring residential properties. These matters have been carefully considered in the context of relevant planning policy, the town centre location, the flat's modest scale, and the operational management measures proposed.

The proposed development has been assessed against National Planning Framework 4 (NPF4) and the South Ayrshire Local Development Plan 2 (LDP2). Given the flat's scale, location, and management measures, the use is unlikely to result in unacceptable impacts on local amenity, communal areas, or the character of the building and Conservation Area. Any potential impacts on amenity, including noise or disturbance, would be addressed through licensing and enforcement mechanisms.

Accordingly, the application is recommended for approval with conditions restricting the use to short-term holiday accommodation.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

**REGULATORY PANEL: 05 FEBRUARY 2026**

|                         |                                                                    |
|-------------------------|--------------------------------------------------------------------|
| <b>SUBJECT:</b>         | <b>PLANNING APPLICATION REPORT</b>                                 |
| <b>APPLICATION REF:</b> | <b>25/00765/APP</b>                                                |
| <b>SITE ADDRESS:</b>    | <b>8B New Bridge Street<br/>Ayr<br/>South Ayrshire<br/>KA7 1JX</b> |
| <b>DESCRIPTION:</b>     | <b>Change of use of dwellingflat to form short term let</b>        |
| <b>RECOMMENDATION:</b>  | <b>Approval with condition(s)</b>                                  |

### **APPLICATION REPORT**

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended). The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

#### **Key Information:**

- The application was received on 18 November 2025.
- The application was validated on 18 November 2025.
- A Site Visit was carried out by the Planning Authority on 3 December 2025.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was carried out by the Planning Authority on 21 November 2025.
- A Site Notice was posted in the locality under Section 60 of Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) by the Planning Authority on 2 December 2025.
- A Public Notice, under The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) was placed in the Local Press on 2 December 2025.

#### **1. Proposal:**

Planning permission is sought for the change of use of a dwellingflat to form short-term letting accommodation. The application site comprises of a 2nd floor dwellingflat located at 8B New Bridge Street, Ayr. The dwellingflat is situated within a building of three and a half storeys and shares a communal entrance with two other dwellingflats. There is a commercial property located at ground floor level. The application site is located with Ayr town centre and Ayr Central conservation area, as prescribed by the South Ayrshire Local Development Plan 2, and is also within a category B-listed building.

The proposed use of the flat for short-term letting purposes does not involve any alterations to the internal layout or external appearance of the building, with the application solely seeking permission for the change of use in order to comply with the Scottish short-term letting licensing scheme.

The application is accompanied by an Operational Statement submitted with the application, which sets out the following operational and management arrangements:

- The property has two bedrooms and a maximum occupancy of four persons.
- The property shall be let between March and December.
- The let shall operate a minimum stay length of two days and a maximum of fourteen days.
- The property shares a communal entrance with three other dwellingflats.
- The guests shall be met in person at check in time of 3pm. Check out time shall be 11am.
- All cleaning and laundry shall be undertaken by the applicant.
- Waste shall be disposed of using existing communal bins.
- Guests shall be informed of house rules contained within guest manual stored in property. Noise sensors shall also be installed within the property.
- Owner has provided neighbouring residential properties with their phone number to be contacted should there be any complaints. Each complaint shall be reviewed and stays terminated, if appropriate.

The flat shares a common entrance with two other units, and communal bin provision is also shared among the three flats. No external amenity space or private parking is associated with the flat; both on and off-street public parking is available nearby.

The application requires to be reported to the Council's Regulatory Panel, as the Fort, Seafield and Wallacetown Community Council has objected to the application, thereby expressing a different view to the recommendation to approve the application subject to conditions.

**2. Consultations:**

No consultations were undertaken for this application.

**3. Submitted Assessments/Reports:**

In assessing and reporting on a Planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations.

None.

**4. S75 Obligations:**

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development.

None.

**5. Scottish Ministers Directions:**

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

None.

## **6. Representations:**

2 representations have been received which object to the proposed development. All representations can be viewed online at <https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T5WSSJBDJEQ00&activeTab=summary>

The objections raise the following key concerns:

- Perceived over-provision of short-term lets within the area,
- Shared access to the property, which could result in disturbance of amenity and overuse of communal bin facilities.
- The loss of a residential property from the housing stock, which could exacerbate a shortage of long-term accommodation.

In accordance with the Council's procedures for the handling of planning applications, Representees have the opportunity to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to the points raised in the objection is included within the assessment section of this report.

## **7. Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

On 13 February 2023, Scottish Ministers published and adopted National Planning Framework 4 (NPF4). NPF4 sets out the Scottish Ministers position in relation to land use planning matters and now forms part of the statutory development plan, along with the South Ayrshire Local Development Plan 2 (LDP2) (adopted August 2022).

Sections 25(1) and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. The application is determined on this basis.

Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); Section 24(3)). NPF4 was adopted after the adoption of LDP 2, therefore NPF4 will prevail in the event of any incompatibility.

### **(i) National Planning Framework 4 (NPF4)**

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-planning-framework-4/pages/12/index.aspx):

Policy 30 of the revised Draft National Planning Framework 4 states that development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

An assessment of the application proposals on the impact on local amenity is set out elsewhere in this report.

In considering the local economic benefit of the application proposal, the Scottish Government's 'Research into the impact of short-term lets on communities across Scotland' document is of relevance to the assessment of the application. The document sets out 5 key impacts that short-term lets have on communities, which include local economic benefits. The document acknowledges that STLs encourage tourism which supports local economic benefits. Specifically, the benefits identified relate to increased spend, increased availability of jobs (often all year round) and direct jobs and trade for the STLs supply chain including property managers, cleaners and the property maintenance industry.

The application site is located within the settlement of Ayr, more specifically with the town centre, and guests of the STLs will have easy access to services and amenities located with Ayr and other neighbouring settlements. It is not unreasonable to assume that guests of the STLs will use such services and amenities and thus increase spend within the local area. Overall, it is considered that the loss of the existing residential accommodation can be justified due to the local economic benefits associated with the application proposals.

The provisions of NPF4 must, however, be read and applied as a whole, and as such, no policies should be read in isolation. The application has been considered in this context.

For the reasons set out above, and elsewhere in this report, the proposals are considered to align with the policy provisions of the National Planning Framework 4.

(ii) South Ayrshire Local Development Plan 2

The following policies of the South Ayrshire Local Development Plan 2 are relevant in the assessment of the application and can be viewed in full online at [Local development plan 2 - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://www.south-ayrshire.gov.uk/local-development-plan-2):

- LDP 2 Strategic Policy 1: Sustainable Development
- LDP 2 Strategic Policy 2: Development Management
- LDP 2 Policy: Tourism
- LDP 2 Policy: Town Centres

The provisions of the Adopted South Ayrshire Local Development Plan 2 must, however, be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

An assessment of the proposals against the provisions of Local Development Plan 2 is set out below.

(iii) Other Policy Considerations (including Government Guidance)

None.

(iv) Objector Concerns

- *Perceived over-provision of short-term lets within the area.*

While it is acknowledged that Ayr contains a number of existing STLs, each application is assessed on its individual merits. The proposed flat is modest in size, with two bedrooms and maximum occupancy of four guests. The operational arrangements, including house rules, noise sensors installed within property and in person check in, are designed to ensure minimal impact on neighbouring residents. The proposal does not contribute to cumulative adverse impacts in the wider town centre.

- *Shared access to the property, which could result in disturbance of amenity and overuse of communal bin facilities.*

The flat shares a common entrance and bin store with two other flats. Guests will be provided with clear instructions within the House Rules regarding the use of the property, which should minimise potential disturbances to neighbours.

- *The loss of a residential property from the housing stock, which could exacerbate a shortage of long-term accommodation.*

The application involves a single two-bedroom flat within a three-unit block. While there is a finite supply of residential properties, the modest scale and temporary nature of the proposed short-term letting use and its location within Ayr town centre, mean that the impact on long-term housing availability is minimal and is outweighed by the local economic benefits associated with tourism spend and supporting local businesses.

(v) Impact on the Locality

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises National Planning Framework 4 (NPF4) and the South Ayrshire Local Development Plan 2 (LDP2), as outlined above. The main issues in this case are whether the proposal complies with development plan policy, and whether any other material considerations justify a departure from policy.

NPF4 was adopted on 13 February 2023 and carries increased weight over previous national frameworks. In the absence of specific Council guidance relating to short-term lets, Policy 30 of NPF4 is relevant. It states that proposals for the reuse of existing buildings for short-term holiday letting should not be supported where they would result in an unacceptable impact on local amenity or the character of a neighbourhood, or where the loss of residential accommodation is not outweighed by demonstrable local economic benefits.

The submitted Operational Statement demonstrates management measures designed to mitigate potential impacts on amenity, including house rules, noise sensors installed within property, in person check in, and overall availability of the operator. The modest scale of the flat, with two bedrooms and a maximum occupancy of four guests, further limits potential disturbance. Any persistent issues would be addressed through Police Scotland, the Council's Environmental Health Service, or the Short-Term Lets Licensing Team.

In terms of economic impact, the Scottish Government's research on short-term lets in Scotland highlights local economic benefits, including increased spend, additional employment (including property management, cleaning, and maintenance), and support for tourism-related services. The flat is located in Ayr town centre, providing guests with convenient access to local services and amenities. These economic benefits support the justification for the limited loss of long-term residential accommodation.

The site at 8B New Bridge Street, is a two-bedroom flat within a three and a half storey category B-listed building, with three other residential units and commercial premises at ground floor level within Ayr town centre and Ayr Central conservation area. Shared access and bin provision are in place, and there are no other short-term lets in the building. No neighbouring residential properties have not objected. Parking and access have been considered; while the flat relies on public on and off street parking, the modest occupancy and central location in proximity to public transport options, combined with a public car park immediately to the rear, suggest that additional parking demand would be minimal.

No external alterations are proposed. The short-term letting use will retain the residential character of the flat and will be restricted to holiday occupancy only. The operational measures and licensing controls are considered sufficient to prevent unacceptable impacts on neighbours or the character of the locality.

The Regulatory Panel has considered multiple applications for short-term let accommodation across South Ayrshire, and their decisions are acknowledged as material considerations. Each application is assessed on its individual merits, with careful attention to potential impacts on residential amenity, property scale, over-provision of short-term lets, and parking. These decisions highlight the scrutiny applied by the Panel in balancing the benefits of short-term letting against potential adverse impacts on local amenity and the character of residential areas.

In the context of this application, the property is a two-bedroom second floor flat located within a town centre. Its scale, operational management measures, and town centre location suggest that the likelihood of significant adverse impacts on neighbouring amenity is limited. Expectations of residential amenity in a town centre context differ from predominantly residential areas, where the Panel's previous refusals were based. No neighbouring residents have objected, and the Operational Statement demonstrates robust measures to manage occupancy, guest behaviour, and waste.

While the Regulatory Panel retains the discretion to reach a different view, the proposal is considered to comply with Policy 30 of NPF4 and relevant LDP2 provisions. Licensing arrangements provide ongoing operational control, including measures to address noise or anti-social behaviour, with licences requiring renewal every three years.

Taking into account NPF4 Policy 30, relevant LDP2 provisions, the flat's scale, operational management measures, and town centre context, the proposal is not expected to result in unacceptable impacts on local amenity or the character of the area. Approval is recommended, subject to conditions restricting use to short-term holiday accommodation only.

## **8. Conclusion:**

The application has been assessed against the various material considerations, including the provisions of the development plan, relevant supplementary guidance, consultations, representations received, and the impact of the proposed development on the locality.

The assessment concludes that the principle of the proposed development complies with the development plan and relevant guidance. The consultation responses do not raise any issues of overriding concern that cannot be addressed by condition. Similarly, the points raised in the objection have been fully considered but do not raise any matters that would merit refusal of the application. It is considered that the site context, the character of the area, and the operational management arrangements for the short-term let are satisfactory and, together with the imposition of suitable planning conditions, will ensure an acceptable form of development.

Given the above assessment, and having balanced the applicant's rights against the general interest, the application is recommended for approval, subject to conditions restricting the use to short-term holiday accommodation only.

## **9. Recommendation:**

It is recommended that the application is approved with the following condition(s):

### **Reasons:**

- (1C) That the development hereby permitted must be begun within **three years** of the date of this permission.
- (1R) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.
- (2C) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (2R) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3C) That the accommodation hereby approved shall not be promoted, advertised, let, or used for any purpose other than as holiday accommodation, to the satisfaction of the Planning Authority.
- (3R) To define the terms of this planning permission, and to retain proper planning control over the development.

### **9.1 Advisory Notes:**

None.

### **9.2 List of Determined Plans:**

Drawing - Reference No (or Description): Location Plan

Drawing - Reference No (or Description): Floor Plan

Supporting Information - Reference No (or Description): Operational Statement

### **9.3 Reason for Decision (where approved):**

The proposed change of use proposal is supported by the framework of planning policy including National Planning Framework 4 and Local Development Plan 2 in that it could bring economic benefits to the area and is not expected to have a detrimental impact on residential amenity or the character of the surrounding area. Should any residential amenity issues arise in the future, it would be for Police Scotland, the Council's Environmental Health Service or Licensing Team to pursue through their regulatory powers.

**Background Papers:**

1. Application form, plans and submitted documentation.
2. Representations.
3. National Planning Framework 4 (NPF4).
4. Adopted South Ayrshire Local Development Plan (LDP2).

**Integrated Impact Assessment:**

The consideration of this planning application sits within a policy framework of the Council's Local Development Plan 2 and National Planning Framework 4. These have been the subject of Equalities Impact Assessments which considered how the policies may impact on protected characteristics. Therefore, no separate Integrated Impact Assessment is required.

**Person to Contact:**

Emma McKie, Supervisory Planner (Development Management) - Telephone 01292 616 203

**REGULATORY PANEL: 5 FEBRUARY 2026**

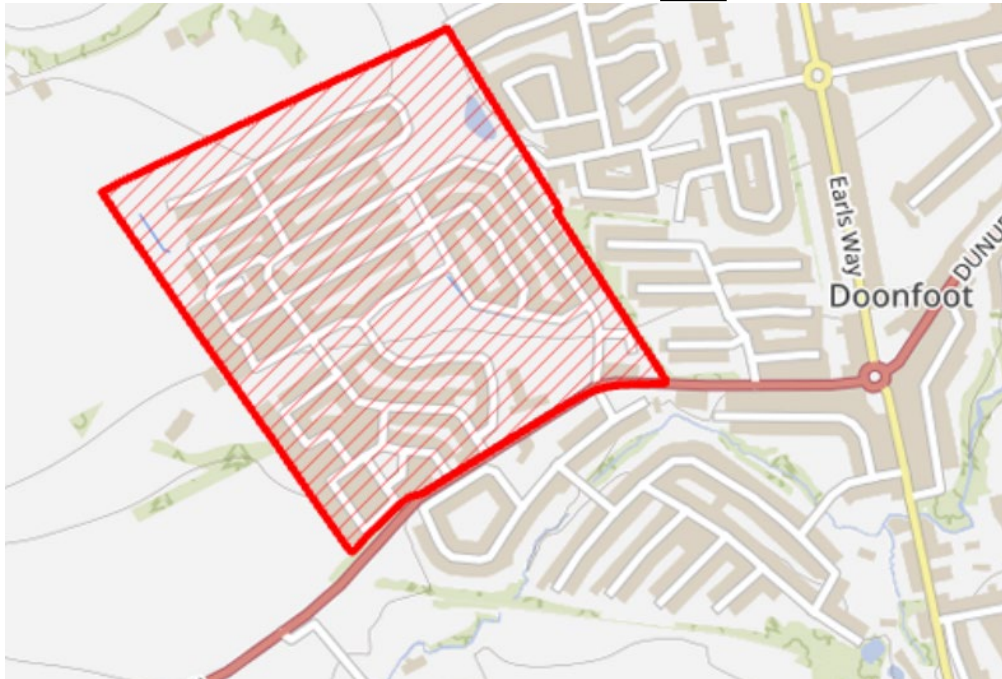
**REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT**

**25/00364/MDO and 25/00372/MDO**

**LAND AT GREENAN DUNURE ROAD AYR SOUTH AYRSHIRE**

**Location Plan**

**APPLICATION SITE** 



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

[\(Application Summary\)](#)

**Summary**

These applications seek to modify the Minutes of Agreement associated with the Section 75 obligations for planning permissions 09/00683/OUT and 18/00311/FURM, the latter being a renewal of the original permission 09/00683/OUT.

These applications are not planning applications and the statutory requirements for determining a planning application are not relevant to the consideration of these applications. Primacy of the development plan is not applicable although it remains a consideration alongside Circular 4/2025 and representations received from interested parties. Interested parties are defined in the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 as (other than the applicant) the owner of the land and/or any other person against whom the planning obligation is enforceable.

The Section 75 Agreements for both planning permissions contain equivalent provisions. They relate to the payment of financial contributions towards education infrastructure (alongside other matters not under consideration in these applications). A total of 495 homes were approved, and it was anticipated that pupil numbers in local schools would rise as a result. Accordingly, the Agreements set out the expected contribution levels to meet the associated education infrastructure requirements. However, the number of children generated by the development has been significantly lower than projected. As a result, some of the contributions paid by the developer have not been required for school infrastructure. The developer is therefore seeking repayment of the unspent monies through these applications. It is important to note that these contributions are not a tax; rather, they operate as a form of insurance designed to cover

the cost of additional education infrastructure if pupil numbers increased at the levels originally forecast - which ultimately did not occur.

Infrastructure is identified in the Agreements as:

- (a) “the extension of Doonfoot Primary School (including temporary units), incorporating a community lifelong learning suite”;
- (b) “the extension of Kyle Academy”; and
- (c) “the extension of St John’s Primary School”.

The Agreements allow some flexibility in how contributions may be used, specifying that if “the Council determine that the sums received would be better spent on alternative facilities to meet the educational needs of children residing in the Development, the Council shall be entitled to spend the sums accordingly”.

All education contributions due to the Council under the Agreements amount to approximately £9 million over a 15-year period. The Council has used part of these funds to expand and improve Doonfoot Primary School. Approximately £3.8 million has been spent on alteration projects at the school, including: a three-classroom extension at the Lower School (£850,000, completed in 2014); a games hall extension (£1.75 million, completed in 2020); a two-classroom extension at the Upper School (£725,000, completed in 2023); and car park extension, landscaping, and security works (£500,000, completed in 2024). Around £1.9 million associated with Doonfoot Primary School remains unspent.

The Agreements require a contribution of £914.00 from the developer for each new housing unit sold, to be used towards the construction of an extension at St John’s Primary School or alternative educational works benefitting children from the development. No alteration projects have been undertaken at St John’s Primary School since 2014 using Greenan developer contributions, and, including interest accrued, approximately £632,000 remains unspent.

Similarly, the Agreements require a contribution of £914.00 per unit towards the construction of an extension at Kyle Academy or alternative works to meet the educational needs of children residing in the development. No alteration projects have been delivered at Kyle Academy since 2014 using Greenan developer contributions, and, including accrued interest, approximately £2.8 million remains unspent.

In September 2024, MacTaggart and Mickel made their final payment to the Council, following completion of the last dwelling within the development. The Section 75 Agreements specify that any contributions not contractually committed or spent are to be repaid within five years of completion. Notwithstanding this current proposal to amend the legal agreement, any unspent monies would be due to be returned to the applicant by September 2029. The unspent monies are c£5.3million plus interest.

The Section 75 Agreements stipulate that any contributions not contractually committed or spent must be repaid within five years of completion of the development. Accordingly, any unspent monies would be due to be returned to the applicant by September 2029.

The applicant is now seeking to modify the Section 75 Agreements to allow for the repayment of unspent education contributions, together with accrued interest. The applicant’s position is that there is no lawful basis for the Council to justify any further expenditure on education infrastructure arising from the Greenan development.

Twelve representations have been received from interested parties in relation to application 25/00364/MDO: eleven objections (two from same individual x2) and one in support. A separate representation from Alloway, Doonfoot and St Leonards Community Council has also been received, which objects to the proposal. Nine representations (two from same individual x2) have been submitted by interested parties in relation to application 25/00372/MDO, all of which object. The issues raised across both applications include concerns about education infrastructure, the use of contributions, demographic trends, the content of the interested party notification letter, and various other matters relating to the estate. A separate representation from Alloway, Doonfoot and St Leonards Community Council has also been received, which objects to the proposal. This community view can only be noted as representations that can be considered under the S75A procedure are limited to interested parties which is defined as the owner of the land and/or any other person against whom the planning obligation is enforceable, as set out above. Only representations received from parties with a land ownership interest should be considered in relation to these applications. As set out above, consideration of these applications falls outside the statutory requirements for determining planning applications therefore representations made by interested parties are not regarded as material planning considerations and are listed for information only.

Having regard to the available evidence on pupil numbers, projections, and school capacities within the catchment area (and at Kyle Academy, which lies outwith the catchment), and taking account of the tests contained in Circular 4/2025 on Planning Obligations, the Development Plan and representations from interested parties, it is considered that the Council cannot reasonably retain the unspent education contributions associated with the Greenan development and they are now unnecessary. While a spike in the school-age population could occur within the next four years, the evidence indicates this is highly unlikely. The recommendation that the unspent monies should be returned has therefore been reached on the basis of a balanced assessment of the evidence. If approved, the decision will be reported to Cabinet for noting due to financial implications for the Council.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

### REGULATORY PANEL: 5 FEBRUARY 2026

|                          |                                                                                                                                                                                        |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SUBJECT:</b>          | <b>PLANNING REPORT</b>                                                                                                                                                                 |
| <b>APPLICATION REFS:</b> | <b>25/00364/MDO and 25/00372/MDO</b>                                                                                                                                                   |
| <b>SITE ADDRESS:</b>     | <b>Land At Greenan<br/>Dunure Road<br/>Ayr<br/>South Ayrshire</b>                                                                                                                      |
| <b>DESCRIPTION:</b>      | <b>Modification of planning obligations to require repayment of sums not spent on delivery of education infrastructure related to the development (09/00683/OUT and 18/00311/FURM)</b> |
| <b>RECOMMENDATION:</b>   | <b>Approval. The decision will be reported to Cabinet for noting due to financial implications for the Council.</b>                                                                    |

#### APPLICATION REPORT

The application is considered in accordance with the Council's Scheme of Delegation.

#### Key Information:

- The applications were received on 6 June 2025.
- The applications were validated on 28 July 2025.
- No Site Visit was undertaken by the Planning Authority because the applications relate to the modification of Minutes of Agreement connected to Section 75 obligations and no physical development is proposed.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was not required to be undertaken for the applications.
- Letters to Interested Parties, as required under Section 75A of The Town and Country Planning (Scotland) Act 1997 were carried out by the Planning Authority on 1 August 2025. This relates to every property and landowner within the red line application site boundary associated with planning permission 09/00683/OUT and the subsequent renewal application - 18/00311/FURM. A further letter to interested parties was issued on 3 November 2025.
- No Site Notice was required.
- No Public Notice in the Local Press was required.
- If approved, the decision will be reported to Cabinet for noting due to financial implications for the Council.

#### **1. Site Description**

The application site is located to the south of Ayr and comprises an area of approximately 35 hectares of land which has been developed for residential (and commercial) use.

## **2. Planning History**

There is an extensive planning history at the site and applications are listed below.

04/01658/OUT - Outline planning permission for the erection of residential development and community facility – Withdrawn June 2009.

09/00683/OUT – Outline planning permission for the erection of residential development and ancillary uses, local convenience retail (class 1), care home (class 8), community facility (class 10) and associated access car parking, open space and landscaping – Approved October 2010.

10/00957/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved January 2011.

11/01406/MDO - Modification of minute of agreement (Section 75) October 2010 (Planning Permission 09/00683/OUT), Paragraph 6.1.1 – Approved December 2011.

14/00052/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved March 2014.

14/00772/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved September 2014.

15/01090/MDO - Discharge of minute of agreement (Section 75) (Planning Permission 09/00683/OUT) – Approved May 2016.

16/00227/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved June 2016.

17/01081/APP – Substitution of house types on plots 4, 5, 8, 9, 10, 19, 20, 36, 37, 40 and 44 in approval 14/00772/MSCM – Approved November 2017.

17/01387/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved May 2018.

18/00105/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT - erection of 105 residential units, associated works, SUDS basin and landscaping – Approved June 2018.

18/00311/FURM – Further application as not to comply with Condition 1 of Planning Permission 09/00683/OUT to extend the period of time within which Matters Specified in Conditions applications may be submitted by six years – Approved July 2021.

18/00357/MSCM - Approval of matters specified in conditions of outline planning permission 09/00683/OUT (amendment to layout of plots 11-14, 42 and 43 in approval 14/00772/MSCM) – Approved September 2018.

18/00736/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved March 2019.

18/00947/MSCM - Application of approval of matters specified in conditions of outline planning permission 09/00683/OUT (formation of spine road) – Approved December 2018.

21/00556/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT (as renewed by 18/00311/FURM) – Withdrawn September 2021.

21/00800/MSC - Approval of matters specified in conditions of outline planning permission 09/00683/OUT (as renewed by 18/00311/FURM) - Formation of kickabout pitch and associated works – Approved November 2021

21/00839/MDO - Application for modification of Section 75 agreement in relation to 09/00683/OUT – Approved October 2021.

21/00962/MSC - Approval of matters specified in conditions of outline planning permission 09/00683/OUT (as renewed by 18/00311/FURM) – Approved November 2021.

### **3. Background and description**

#### **Background**

Permission is sought to modify the Minutes of Agreement associated with the Section 75 legal obligations for planning applications 09/00683/OUT and 18/00311/FURM. Application 18/00311/FURM renewed the consent previously granted under 09/00683/OUT.

MacTaggart and Mickel Ltd and the Council are signatories to the Agreement associated with permission 09/00683/OUT and MacTaggart and Mikel Ltd, West of Scotland Housing Association Limited, CALA Management Limited and the Council are signatories to the Agreement associated with permission 18/00311/FURM.

The Agreements relate to the payment of financial contributions towards the provision of education infrastructure, alongside other matters not under consideration in these applications. A total of 495 homes were consented, and it was anticipated that pupil numbers in the local schools would increase as a result, with the expected contribution costs set out below. However, the number of children arising from the development has been significantly lower than projected, meaning that some of the contributions paid by the developer have not been required. The developer is therefore seeking repayment of these unspent funds through the current applications. It is important to note that the contributions are not a tax; rather, they mitigate anticipated impacts from a development with projected necessary expansions to local schools in response to the predicted rise in pupil numbers, which ultimately did not occur. The detail of these Agreements is as follows.

Outline planning permission was granted in October 2010 (09/00683/OUT) for a 495-unit residential development at Greenan. The sole applicant, MacTaggart and Mickel Ltd, entered into a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 with South Ayrshire Council, covering a number of matters including the payment of financial contributions towards the delivery of school enhancements. The Agreement contains planning obligations relating to the provision of education infrastructure to mitigate the impact of the development. The infrastructure identified comprises:

- the extension of Doonfoot Primary School (including temporary units), incorporating a community lifelong learning suite;
- the extension of Kyle Academy; and
- the extension of St John's Primary School.

The Agreement provides some flexibility in the use of contributions, stating that if “the Council determine that the sums received would be better spent on alternative facilities to meet the educational needs of children residing in the Development, the Council shall be entitled to spend the sums accordingly.”

A separate Section 75 Agreement was entered into in 2021 when planning permission 18/00311/FURM was granted to allow the continuation of the Greenan development. That Agreement contains equivalent provisions to those in the 2010 agreement in relation to education contributions.

The applicant, MacTaggart and Mickel, has paid all education contributions due under the Agreements to the Council, amounting to approximately £9 million over a 15-year period. The Council has used part of these funds to expand and improve Doonfoot Primary School. Approximately £3.8 million has been spent on alteration projects, including:

- a three-classroom extension at the Lower School (£850,000, completed in 2014);
- a games hall extension (£1.75 million, completed in 2020);
- a two-classroom extension at the Upper School (£725,000, completed in 2023); and
- car park extension, landscaping, and security works (£500,000, completed in 2024).

Approximately £1.9 million associated with Doonfoot Primary School remains unspent.

Under the Section 75 Agreements, a contribution of £914 per housing unit sold is required towards the construction of an extension at St John's Primary School, or alternative works to meet the educational needs of children from the development. No alteration projects have been completed at St John's Primary School since 2014 using Greenan developer contributions, and including accrued interest, approximately £632,000 remains unspent.

Similarly, a contribution of £914 per unit is required towards the construction of an extension at Kyle Academy, or alternative works to meet the educational needs of children from the development. No alteration projects have been completed at Kyle Academy since 2014 using Greenan developer contributions, and including accrued interest, approximately £2.8 million remains unspent.

In September 2024, MacTaggart and Mickel made their final payment to the Council, following completion of the last dwelling within the development. The Section 75 Agreements specify that any contributions not contractually committed or spent are to be repaid within five years of completion. Notwithstanding this current proposal to amend the legal agreement, any unspent monies would be due to be returned to the applicant by September 2029. The unspent monies are c£5.3million plus interest.

#### Description

The applicant is seeking to modify the Section 75 Agreements to provide for repayment of unspent education contributions, together with accrued interest, as they consider there to be no lawful basis for further expenditure by the Council on education infrastructure arising from the Greenan development.

Specifically, the applicant has applied to modify the Section 75 Agreements to delete the words “within 5 (five) years of the last payment” in Clause 4.1.8 (last completed dwelling) and to delete the existing wording in clause 4.1.9 and replace it with the following:

*“Contributions received under Clause 4.1 but not committed to or spent on the extension, or other alternative works as aforesaid by 18<sup>th</sup> February 2025, and all accrued interest thereon shall be repaid by the Council to MacTaggart and Mickel Homes limited by 30<sup>th</sup> July 2025 or, if later, 28 days after it is agreed or determined that such contributions have not been spent in accordance with the terms of the Agreement”.*

#### **4. Submitted Assessments/Reports:**

The applicant has submitted the following reports in support of their submission:

**Supporting Statement:** This sets out the background to the Section 75 Legal Agreements. It states that c£9m has been paid to the Council in education contributions over a period of nearly 15 years and that in August 2024 the Council held c£5.9m which at that stage had not been allocated to any identified future capital projects. MacTaggart and Mickel (the applicant) made a final payment to the Council of £259,778 in September 2024. It further states that the available evidence strongly suggests that there is no ongoing requirement to carry out any further school improvements as a result of the Greenan development. The Agreement provides that any contributions that have not been contractually committed or spent are to be repaid within 5 years of completion of the Development, i.e. September 2029. However, the statement outlines that in view of the available evidence, there does not appear to be any lawful basis on which the Council could justify further expenditure on education infrastructure arising from the Development.

**South Ayrshire Council Report by Director of Housing, Operations and Development to Service and Partnerships Performance Panel of 20 August 2024:** This report provided an update to Panel on Developer Contributions, obtained through legal agreements, gathered and utilised during the period 2023/24. For Greenan, it outlined that income was £479,228.54 and that expenditure was £550,650.39 in this time period, leaving a balance of £5,899,028.73. It should be noted that this figure does not include payment for the car park project at Doonfoot Primary School (£500,000) which was completed in late August 2024.

**Education Capacity Assessment Report (Lichfields, dated 12 September 2025):** This report explores whether the education contributions set out in the Section 75 Agreements are justified, fair and reasonable given the impact the development has had and is predicted to have on the Council's school estate. The report considers the following: identifies the policy tests for developer contributions/planning obligations, assesses the population change within Doonfoot Primary School's catchment area, identifies the history of the school capacities in each of the relevant schools, considers whether the spending of the contributions made is in line with the requirements of NPF4/Circular 3/2012 and sets out conclusions. The conclusions reached are as follows: any monies still held for the provision of increased capacity at Doonfoot Primary School should be returned to the developer, the developer contributions that were paid as part of the Greenan development for an extension to St John's Primary School (none of which has been spent to date and will not be required in the future) should be returned and that the developer contributions that were paid as part of the Greenan development for an extension to Kyle Academy (none of which has been spent to date and will not be required in the future) should be returned.

## **5. Consultations:**

**Council's Schools and Service Support (Education Service):** The response from Education forms a critical element within the assessment of these applications. As such, the response is incorporated within the assessment section of this report.

## **6. S75 Obligations**

Applications 25/00364/MDO and 25/00372/MDO seek to modify legal agreements entered into in relation to planning permissions 09/00683/OUT and 18/00311/FURM respectively, solely in relation to Education Contributions.

The obligations within 09/00683/OUT cover the following matters in relation to Education Contributions:

- Doonfoot Primary School – the owner shall pay £3,365,610 towards the extension of Doonfoot Primary School (including any temporary units), incorporating a community lifelong learning suite, to the Council.
- Kyle Academy – the owner shall pay £1,744,940 towards the extension of Kyle Academy to the Council.
- St John's Primary School – the owner shall pay £393,020 towards the extension of St John's Primary School to the Council.

It is stated that any money which has not been committed or spent on the extensions, or other alternative works to meet the educational needs of children residing in the Development, and all accrued interest will be repaid to the Owner if the Council has not appointed a contractor to construct the extensions, or other alternative works as aforesaid, within 5 years of the completed construction of the full Development.

The obligations within 18/00311/FURM effectively mirror those within the previous planning permission in respect of Education Contributions.

The Section 75 Agreements associated with planning permission 09/00683/OUT and renewal 18/00311/FURM also included affordable housing provision, financial contributions to the Council's Roads and Transportation Services towards improvements to the local road network and the provision of a commercial bus service servicing the application site. However, as aforementioned, the applications currently under consideration only relate to the return of unspent Education Contributions

## **7. Scottish Ministers Directions:**

None.

## **8. Representations:**

The process of determining a s75A application requires the Council to notify any party with a land interest. The houses built as part of the Greenan development have land titles over which the section 75 Agreements relate. The purpose of the notification is to let parties with title interest be aware of potential changes to their land title. 12 representations from interested parties with a land interest have been received in relation to application 25/00364/MDO (two from same individual x2), 11 of which object to the proposal, including from Alloway, Doonfoot and St Leonards Community Council.

9 representations have been received in relation to application 25/00372/MDO (two from same individual x2), all of which object to the proposal.

All representations can be viewed online at: [25/00364/MDO | Modification of planning obligation to require repayment of sums not spent on delivery of education infrastructure related to the development \(09/00683/OUT\) | Land At Greenan Dunure Road Ayr South Ayrshire](#)

[25/00372/MDO | Modification of planning obligation to require repayment of sums not spent on delivery of education infrastructure related to the development \(18/00311/FURM\) | Land At Greenan Dunure Road Ayr South Ayrshire](#)

It is important to note that representations require to be considered in the determination of these applications; however, they are not material planning considerations in the way that representations on a planning application are considered.

The representations can be summarised under the topic headings below, although as noted above, these do not have the status of being 'material planning considerations'. The Planning Service's response to the representations has also been provided.

### **Education Infrastructure**

- Money should be used for future upgrades/renovations to local schools as the Greenan development will result in an increase in school rolls.

**Response: This matter is addressed within the assessment section of this report.**

- Doonfoot Primary School is stretched, increase in pupils with special needs including ADHD, dyslexia, physical impairment etc – demand for teaching assistants. If money isn't used for this, future problems will be created in relation to disaffected/disassociated adults in area.

**Response: Pupil numbers at Doonfoot Primary are addressed within the assessment section of this report. Money obtained from Education contributions cannot be used to fund teaching assistants.**

### **Use of Money**

- Mini football pitch within development has not been installed, only grass with no goals/markings – this is an educational need.

**Response: Planning application 21/00800/MSD approved the formation of kickabout pitch and associated works in November 2021. The developer has confirmed that these works are complete. However, the Planning Service has asked the developer if goals could be provided (there is no planning requirement), no response has been received to this request to date.**

- The £9m should have been allocated and spent, Council should have been on top of this and had foresight to put clauses in planning permission for matters such as recreational facilities or a GP Surgery.

**Response: The education developer contributions function as a form of insurance. As noted in the assessment section of this report, pupil numbers have not increased as anticipated as a result of the Greenan development, leaving a significant sum unspent. No impact on health provision was identified arising from the development and a GP surgery was not part of any approved planning permission within the Greenan development. The current applications relate solely to education infrastructure.**

- Residents should be able to present a case for keeping the money for such things as better recreational facilities for young people or a GP Surgery.

**Response: The money in question can only be spent on extensions to the schools or on alternative facilities to meet the educational needs of children residing in the Development. Better recreational facilities for young people or a GP Surgery does not fit into either category.**

- Money should be used for the benefit of the community - establish play areas with swings/slides, football ground, repair roads/cycle track, installation of benches along cycle track etc.

**Response: As aforementioned, the education contributions relate solely to education infrastructure.**

### **Demographic Changes**

- The developer wants money back 4 years early, much can change in this time. In one street, 4 babies have been born and two 2 years olds have arrived in past 3 years.

**Response: It is agreed that demographic changes could occur; however, as outlined within the assessment section of this report, the evidence suggests that this is highly unlikely to warrant the retention of the unspent education contributions. The decision requires to be based on evidence, planning policy and planning guidance.**

### Content of Interested Parties Notification Letter

- Difficult to understand what the applications relate to from interested parties letter – jargon.

**Response: The Interested Parties letter provides all of the information required under The Town and Country Planning (Scotland) Act 1997 (as amended) and The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010. Although the language is technical, this is necessary to accurately convey the purpose of the notification, and it is therefore considered reasonable.**

### Other Matters

- Social housing too close to private dwellings, take issue with CALA and the Council.

**Response: This is not a relevant consideration in the assessment of the current applications.**

- In the original Masterplan for the development, there was a Community Building shown in vicinity of the pond – this was not built and a Community Hall is needed.

**Response: This is not a relevant consideration in the assessment of the current applications. Notwithstanding, a Community Hall has not formed part of an approved planning application within the Greenan site.**

- Existing play area in development poorly equipped.

**Response: This is not a relevant consideration in the assessment of the current applications.**

- Greenan estate was supposed to house a football pitch, climbing frame and basketball nets.

**Response: A football pitch was approved under application 21/00800/MSC and the developer has confirmed that this is complete. The developer has not applied for detailed planning consent for a climbing frame or basketball nets.**

- MacTaggart and Mickel should have provided a formal pedestrian route from the estate to Greenan Road.

**Response: This is not a relevant consideration in the assessment of the current applications.**

The letter of support outlines that the money should be returned to the developer due to the fact that further works do not require to be carried out.

### 9. Development Plan:

There is no statutory criteria for determination of an application for modification or discharge of a planning obligation. In particular, there is no statutory requirement in section 75A of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for regard to be had to the development plan. Consequently section 25 of that Act (which requires in respect of planning applications that they are to be determined in accordance with the development plan unless material considerations indicate otherwise) does not apply to applications for modification or discharge of planning obligations. The context provided by planning policy is, of course, still a relevant consideration. The development plan is presently comprised of National Planning Framework 4 and the Council's Local Development Plan 2.

#### National Planning Framework 4 (NPF4)

The following policy of NPF4 is relevant in the assessment of the applications and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/national-planning-framework-4):

The relevant policy in the case of these applications is: NPF4 Policy 18 – Infrastructure First

This policy states that “where planning obligations are entered into, they should meet the following tests:

- be necessary to make the proposed development acceptable in planning terms
- serve a planning purpose
- relate to the impacts of the proposed development
- fairly and reasonably relate in scale and kind to the proposed development
- be reasonable in all other respects

#### South Ayrshire Local Development Plan 2

The following policy of the South Ayrshire Local Development Plan 2 is relevant in the assessment of the application and can be viewed in full online at [Local development plan 2 - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://south-ayrshire.gov.uk/local-development-plan-2)

The relevant policy in the case of these applications is: LDP Policy: Delivering Infrastructure

This policy states that all requirements will be related to the scale, nature and kind to the development and calculated on a case-by-case basis and that any planning obligations should be in accordance with Circular 3/2012: Planning Obligations and Good Neighbour Agreements (now superseded by Circular 4/2025 - see section 10, below). Where there are several developments causing a cumulative impact on infrastructure, the Council will seek contributions proportionate to the scale of each of the proposed developments to ensure contributions are fair and reasonable.

#### **10. Other Relevant Policy Considerations (including Government Guidance):**

The key assessment in determining a s75A are the terms of Circular 4/2025. Circular 4/2025 relates to Planning Obligations and Good Neighbour Agreements. The Circular sets out the tests to be applied in the assessment of applications to modify legal agreements, including the adoption of a sequential approach which considers the use of planning conditions in the first instance, and secondly, the use of an alternative legal agreement. The Circular also states that obligations should meet the “planning purpose test”, should relate to the development being proposed, should relate in scale and kind to the proposed development, and be reasonable in the circumstances of the development.

Paragraph 21 sets out the policy tests and states that:

Planning obligations made under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) should only be sought where they meet all of the following tests:

- necessary to make the proposed development acceptable in planning terms (paragraph 24)
- serve a planning purpose (paragraph 25) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the impacts of the proposed development (paragraphs 26 and 27)
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 28-31)
- be reasonable in all other respects (paragraphs 32-34)

The tests are to be applied to the facts as they stand at the time of the decision on the current applications.

Paragraph 104 states that the planning authority should take into account any changes in circumstances; for example, it may be that external factors affecting the development mean that the obligation is no longer reasonable and that a modification to reflect the change in circumstances is appropriate.

## 11. Assessment

### Introduction

Through the current applications, the applicant is seeking to modify the Section 75 Agreements associated with planning permissions 09/00689/OUT and 18/00311/FURM to provide for the repayment to MacTaggart and Mickel of unspent education contributions, together with accrued interest. The applicant contends that there is no lawful basis on which the Council can justify further expenditure on education infrastructure arising from the Greenan development.

### Section 75 Agreements – Education Contributions

On 6 October 2010 Mactaggart and Mickel Homes Limited entered into an Agreement (“the First Agreement”) under Section 75 of the Town and Country Planning (Scotland) Act 1997 with South Ayrshire Council. The First Agreement relates to planning permission **09/00683/OUT** for a residential development at Greenan, Ayr (hereafter referred to as the “2010 permission”).

In May 2021 Mactaggart and Mickel, West of Scotland Housing Association Limited and CALA Management Limited entered into a further Section 75 Agreement (“the Second Agreement”) with the Council in relation to the Greenan development, associated with planning permission 18/00311/FURM (hereafter referred to as the “2021 permission”). The Council required the Second Agreement before granting planning permission under Section 42 of the 1997 Act to allow for further development to take place at Greenan beyond the original end date of the 2010 planning permission.

The First Agreement contains planning contributions towards the provision of education infrastructure to mitigate the impact of the development. It identifies the infrastructure as:

- (a) “...the extension of Doonfoot Primary School (including any temporary units), incorporating a community lifelong learning suite”;
- (b) “...the extension of Kyle Academy”; and
- (c) “...the extension of St John’s Primary School”.

The Second Agreement effectively mirrors these obligations in relation to any development carried out under the 2021 planning permission.

The First Agreement provides some flexibility to the Council on how the contributions can be spent. It provides that if “the Council determine that the sums received would be better spent on alternative facilities to meet the educational needs of children residing in the Development, the Council shall be entitled to spend the sums accordingly”. Again, the Second Agreement effectively mirrors these obligations in relation to any development that took place under the 2021 planning permission.

The 2010 Agreement between the Council and MacTaggart & Mickel Homes Ltd set out that a contribution of £7,827.00 would be made by the developer in respect of each new housing unit sold, which should be used toward construction of an extension of **Doonfoot Primary School**, or any alternative works to meet the educational needs of children residing within the development. Detailed below, various alteration projects have been completed at Doonfoot Primary School since 2014 using Greenan Developer Contributions and including interest accrued on contributions received, circa £3.8m has been spent on alteration projects, with circa **£1.9m remaining unspent**.

The 2010 Agreement between the Council and MacTaggart & Mickel Homes Ltd set out that a contribution of £914.00 would be made by the developer in respect of each new housing unit sold, which should be used toward construction of an extension of **St John’s Primary School**, or any alternative works to meet the educational needs of children residing within the development. Zero alteration projects have been completed at St John’s Primary School since 2014 using Greenan Developer Contributions and including interest accrued on contributions received, circa **£632,000.00 remains unspent**.

The 2010 Agreement between the Council and MacTaggart & Mickel Homes Ltd set out that a contribution of £914.00 would be made by the developer in respect of each new housing unit sold, which should be used toward construction of an extension of **Kyle Academy**, or any alternative works to meet the educational needs of children residing within the development. Zero alteration projects have been completed at Kyle Academy since 2014 using Greenan Developer Contributions and including interest accrued on contributions received, circa **£2.8m remains unspent**.

2009 Education Impact Assessment and Current Position**Doonfoot Primary School**

In drafting the 2009 Education Impact Assessment in connection with the 2010 Agreement, the Council's **Schools and Service Support** (hereafter referred to as "Education Services") assessed that the school roll at Doonfoot Primary School would increase by over 150 pupils, by the year 2018 and that additional accommodation would be required, of which contributions from the Greenan Development should make up 88% of the estimated cost. The roll of the school for the previous 2007/08 session was 332 and the building had a classroom capacity of 368 pupils.

For the 2024/25 school session the school had a roll of 359 and an updated classroom capacity of 459 pupils. The roll including the 60 infants in the School's Early Years Centre is 419.

Despite the school roll not increasing as anticipated in the 2009 Education Impact Assessment, and pupil product ratios being lower than expected, recent postcode analysis undertaken by Educational Services of pupils registered in South Ayrshire Council Schools and living in the Greenan Development shows that there are in fact 191 school and nursery age children living in the circa 500 new Greenan development homes attending Council schools and Early Years Centres. 91 school or nursery age children are currently attending Doonfoot Primary School and Early Years Centre from new Greenan development homes.

As the roll at Doonfoot Primary School has only risen by circa 40 pupils in the fifteen years since the original Section 75 Agreement was signed, the above indicates that other postcodes in the Doonfoot catchment have matured.

In their September 2025 Education Capacity Assessment Report, the applicant copies the pupil projection numbers prepared by the Council in 2009 for Doonfoot Primary School and the Scottish Government recorded pupil capacity of Doonfoot Primary School and the roll/spare capacity year on year since 2011. These are highlighted in tables 1 and 2 below.

**TABLE 1**

| <b>Year</b>       | <b>Doonfoot Primary<br/>(excluding<br/>developments that<br/>are subject to<br/>contributions)</b> | <b>Doonfoot Primary<br/>(including<br/>developments that<br/>are subject to<br/>contributions)</b> |
|-------------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <b>Capacity</b>   | 368                                                                                                | 368                                                                                                |
| <b>(less 10%)</b> | <b>(331)</b>                                                                                       | <b>(331)</b>                                                                                       |
| <b>2007</b>       | 332                                                                                                | 332                                                                                                |
| <b>2008</b>       | 337                                                                                                | 337                                                                                                |
| <b>2009</b>       | 348                                                                                                | 348                                                                                                |
| <b>2010</b>       | 341                                                                                                | 341                                                                                                |
| <b>2011</b>       | 337                                                                                                | 345                                                                                                |
| <b>2012</b>       | 342                                                                                                | 362                                                                                                |
| <b>2013</b>       | 354                                                                                                | 388                                                                                                |
| <b>2014</b>       | 355                                                                                                | 406                                                                                                |
| <b>2015</b>       | 354                                                                                                | 421                                                                                                |
| <b>2016</b>       | 354                                                                                                | 444                                                                                                |
| <b>2017</b>       | 355                                                                                                | 465                                                                                                |
| <b>2018</b>       | 355                                                                                                | 487                                                                                                |

**TABLE 2**

| Doonfoot Primary School | Capacity | Total pupils | P1 | P2 | P3 | P4 | P5 | P6 | P7 | Spare Capacity |
|-------------------------|----------|--------------|----|----|----|----|----|----|----|----------------|
| 2011                    | 368      | 322          | 49 | 42 | 39 | 56 | 49 | 39 | 48 | 46             |
| 2012                    | 368      | 333          | 48 | 43 | 37 | 51 | 48 | 47 | 59 | 35             |
| 2013                    | 368      | 333          | 42 | 37 | 49 | 47 | 47 | 59 | 52 | 35             |
| 2014                    | 368      | 333          | 48 | 43 | 37 | 51 | 48 | 47 | 59 | 35             |
| 2015                    | 368      | 345          | 55 | 54 | 42 | 40 | 56 | 50 | 48 | 23             |
| 2016                    | 459      | 331          | 34 | 59 | 53 | 44 | 41 | 51 | 49 | 128            |
| 2017                    | 459      | 342          | 48 | 42 | 54 | 55 | 46 | 45 | 52 | 117            |
| 2018                    | 459      | 331          | 34 | 51 | 37 | 56 | 61 | 47 | 45 | 128            |
| 2019                    | 459      | 342          | 46 | 37 | 57 | 39 | 51 | 64 | 48 | 117            |
| 2020                    | 459      | 334          | 35 | 48 | 38 | 59 | 41 | 51 | 62 | 125            |
| 2021                    | 459      | 340          | 57 | 37 | 51 | 40 | 61 | 42 | 52 | 119            |
| 2022                    | 459      | 345          | 52 | 59 | 38 | 53 | 41 | 61 | 41 | 114            |
| 2023                    | 459      | 363          | 29 | 56 | 64 | 44 | 61 | 48 | 61 | 96             |
| 2024                    | 459      | 357          | 47 | 34 | 57 | 68 | 44 | 60 | 47 | 102            |

The applicant asserts that table 2 above demonstrates that the original capacity at Doonfoot Primary School (368 pupil places) has not been exceeded as a result of the new housing development at Greenan and that school rolls have remained significantly lower than what was predicted by the Council in 2009.

Table 3 below illustrates Council predicted school rolls for Doonfoot Primary and actual school rolls.

**TABLE 3**

| Year | Predicted school roll excluding new homes | Predicted school roll including new homes | Actual school rolls | Difference between predictions / actual rolls |      | Original Capacity before extension | Spare Capacity - actual rolls v original capacity |
|------|-------------------------------------------|-------------------------------------------|---------------------|-----------------------------------------------|------|------------------------------------|---------------------------------------------------|
| 2011 | 337                                       | 345                                       | 322                 | -15                                           | -23  | 368                                | 46                                                |
| 2012 | 342                                       | 362                                       | 333                 | -9                                            | -29  | 368                                | 35                                                |
| 2013 | 354                                       | 388                                       | 333                 | -21                                           | -55  | 368                                | 35                                                |
| 2014 | 355                                       | 406                                       | 333                 | -22                                           | -73  | 368                                | 35                                                |
| 2015 | 354                                       | 421                                       | 345                 | -9                                            | -76  | 368                                | 23                                                |
| 2016 | 354                                       | 444                                       | 331                 | -23                                           | -113 | 368                                | 37                                                |
| 2017 | 355                                       | 465                                       | 342                 | -13                                           | -123 | 368                                | 26                                                |
| 2018 | 355                                       | 487                                       | 331                 | -24                                           | -156 | 368                                | 37                                                |
| 2019 |                                           |                                           | 342                 |                                               |      | 368                                | 26                                                |
| 2020 |                                           |                                           | 334                 |                                               |      | 368                                | 34                                                |
| 2021 |                                           |                                           | 340                 |                                               |      | 368                                | 28                                                |
| 2022 |                                           |                                           | 345                 |                                               |      | 368                                | 23                                                |
| 2023 |                                           |                                           | 363                 |                                               |      | 368                                | 5                                                 |
| 2024 |                                           |                                           | 357                 |                                               |      | 368                                | 11                                                |

It is important to note that while the roll at Doonfoot Primary School has not increased as anticipated as per the Council's 2009 pupil projections, these projections were based on the best available data at the time and were intended to mitigate risk.

The current occupancy of the school (357 pupils in the applicant's report of September 2025) is substantially less than its capacity (459). A Report by Education Services in June 2025 outlined that for the current school session there are a total of 320 primary school age children living in the entire Doonfoot catchment area. As aforementioned, the current school roll at Doonfoot Primary is 357. The applicant therefore deduces that at least 37 of those pupils must be present in the school via placement requests being successful from children living out of the catchment area. The applicant reasons in their submitted Education Capacity Assessment Report (Sept 2025) that since the development is now complete and there remains a significant number of spare pupil places in the school, that there will be no further impact on this school as a result of the development at Greenan. The current number of spare pupil places is 102 or at least 139 for catchment pupils, with the school therefore operating at 77.8% capacity.

Notwithstanding the aforementioned, Educational Services can evidence that 28% of the total of primary age pupils residing in the Doonfoot PS catchment area now live within the Greenan Development and that 91 of them attend Doonfoot Primary School and Early Years Centre. Educational Services further note that it would not be possible to accurately predict whether this figure may increase over the remaining four years before any contributions are required to be repaid.

In this regard, the Council is aware, in particular, of the recent planning obligation appeal cases by *Kirkwood Homes Limited against Dundee City Council (POA-180-2006 and POA-180-2007)* in which the original notice of intention and decision were issued on 16 January 2025 (hereafter referred to as the "**the Dundee Appeals**"). It is apparent that the reporter in relation to the Dundee Appeals was aware that the exercise of predicting both future pupil numbers and future educational infrastructure requirements is very uncertain. The main consideration that appears to have influenced his decision is that there was no evidence that in the future (and within the 10 year re-payment time period in terms of the relevant agreement) there was any real likelihood that the situation would change. As he put it there were unlikely to be any "unknown unknowns". At paragraph 80 of the Dundee Appeals the reporter noted:

*"While I agree in general that it is better to err on the side of caution and that removal of the obligation should not be permitted lightly, the inescapable conclusion from the evidence in my judgement is that the causal link is in practical terms broken between the appeal site and any potential future infrastructure impacts to be mitigated in order to now make the development acceptable. Despite the wording of the clause concerned, the foreseeable context is the local primary school and it is with that in mind, that I reach this view".*

The Reporter based the above position on his findings, namely that (emphasis added):

***I conclude that occupancy rates fall at present significantly below the maximum capacity of Forthill Primary School. That position is likely to continue for the foreseeable future. Nothing placed before me suggests a basis for concluding that this may change. As the Council accept, such a change is unlikely. If it happens, that will be because of an unknown unknown. The evidence before me leads to the inevitable conclusion that it would take a remarkable change of circumstances to require an education contribution by the appellants under the Agreement.***

Circular 4/2025 outlines that planning obligations made under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) should only be sought where they meet all of the following tests at the time of the decision on an application:

- necessary to make the proposed development acceptable in planning terms (paragraph 24)
- serve a planning purpose (paragraph 25) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the impacts of the proposed development (paragraphs 26 and 27)
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 28-31)
- be reasonable in all other respects (paragraphs 32-34)

Paragraph 104 states that the planning authority should take into account any changes in circumstances; for example, it may be that external factors affecting the development mean that the obligation is no longer reasonable and that a modification to reflect the change in circumstances is appropriate. Appeal examples of a similar issue elsewhere are therefore considered relevant in assessing whether the obligation is still reasonable or not.

The purpose of this report is not to revisit the Council's original decision to require the obligation as a condition of granting permission. Rather, the relevant tests must be applied to the facts as they exist at the time of the decision on these applications under Section 75A.

Taking cognisance of the figures outlined above, the evidence suggests that the school roll is very unlikely to increase significantly at Doonfoot Primary School by September 2029, when the contributions are due to be returned to the applicant under the Agreements if not committed or used prior to then. Consequently, the evidence indicates that the development is unlikely to give rise to any future infrastructure impacts at Doonfoot Primary School that would require to be mitigated in order to make the development acceptable.

Following a robust assessment, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that retaining these unspent contributions is not necessary and would be unreasonable.

### **St John's Primary School**

In Drafting the Education Impact Assessment in 2009, the Council's Education Service anticipated that the school roll at St John's Primary School would increase by over 100 pupils by the year 2018 and that additional accommodation would be required, of which contributions from the Greenan Development were expected to meet 11% of the estimated cost. The roll of the school for the previous 2007/08 session was 302 and the building had a classroom capacity of 433 pupils. For the 2024/25 school session the school had a roll of 237 and an updated classroom capacity of 394 pupils.

The anticipated increase in roll at St John's Primary School has not been realised. Many factors can have contributed to this including there being no Early Years Centres formed in Council denominational primary schools through Early Years expansion and that there is no dedicated Additional Support Needs education provision at the school. Additional accommodation at the school has not been required, and as such, contributions for St John's have not been spent.

Table 4 below sets out the Scottish Government recorded pupil capacity for St John's Primary and the roll/spare capacity year on year since 2011. 2011 represents the first year after the first new homes were completed at Greenan and the year it is anticipated that new pupils from the subject site would have started entering the school. The figures would appear to evidence that the primary school has not been adversely impacted by the subject development and that the school rolls have remained significantly lower than predicted in 2009 and well below total capacity. It is also noted that capacity at the school has been reduced during the period when additional pupils generated as a result of the Greenan development would have been entering the school.

**TABLE 4**

| St John's Primary School | Capacity | Total pupils | P1 | P2 | P3 | P4 | P5 | P6 | P7 | Spare Capacity |
|--------------------------|----------|--------------|----|----|----|----|----|----|----|----------------|
| 2011                     | 429      | 284          | 44 | 40 | 51 | 45 | 31 | 36 | 37 | 145            |
| 2012                     | 429      | 295          | 49 | 44 | 40 | 54 | 41 | 31 | 36 | 134            |
| 2013                     | 429      | 300          | 48 | 47 | 42 | 37 | 53 | 40 | 33 | 129            |
| 2014                     | 429      | 308          | 39 | 52 | 45 | 40 | 41 | 51 | 40 | 121            |
| 2015                     | 429      | 305          | 37 | 40 | 48 | 46 | 42 | 41 | 51 | 124            |
| 2016                     | 394      | 298          | 35 | 38 | 45 | 46 | 49 | 42 | 43 | 96             |
| 2017                     | 394      | 289          | 35 | 37 | 38 | 44 | 46 | 48 | 41 | 105            |
| 2018                     | 394      | 271          | 27 | 32 | 36 | 40 | 47 | 46 | 43 | 123            |
| 2019                     | 394      | 277          | 43 | 25 | 37 | 39 | 40 | 46 | 47 | 117            |
| 2020                     | 394      | 275          | 33 | 47 | 27 | 38 | 40 | 40 | 50 | 119            |
| 2021                     | 394      | 254          | 31 | 31 | 48 | 28 | 39 | 38 | 39 | 140            |
| 2022                     | 394      | 244          | 33 | 32 | 25 | 49 | 28 | 41 | 36 | 150            |
| 2023                     | 394      | 254          | 30 | 34 | 30 | 28 | 56 | 31 | 45 | 140            |
| 2024                     | 394      | 237          | 24 | 32 | 33 | 30 | 31 | 54 | 33 | 157            |

The capacity of St John's Primary School is 394 pupils. The number of pupils attending St John's in 2023/24 was 254, which equates to an occupancy level of around 64%. The number of pupils at the school has not exceeded 308 (78% occupancy) in the period since the First Agreement was entered into.

Following a robust assessment, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that retaining these unspent contributions is not necessary and would be unreasonable.

#### **Kyle Academy/Belmont Academy**

In drafting the 2009 Education Impact Assessment, the Council's Education Service assessed that extending schools within existing Public Private Partnership (PPP) contractual arrangements was highly complex and extremely expensive and may not represent Best Value. As the catchment non-denominational secondary school for the Greenan Development, Belmont Academy, is a PPP funded school, Education colleagues were of the view that any developer contributions should be based on an extension of nearby, non-catchment, non-denominational secondary school **Kyle Academy**. An anticipated increase in roll at the two schools was for over 400 pupils by the year 2018, which would require additional accommodation, of which it was assessed that contributions from the Greenan Development should make up 11% of the estimated cost.

The combined roll of the two schools for the previous 2007/08 session was 2181. For the 2024/25 school session the schools had a combined roll of 2055. Albeit there are currently 68 pupils attending Council secondary schools that live in the Greenan Development, additional accommodation has not been required. As such and to date, contributions for Kyle Academy have not been spent.

Table 5 below sets out the Scottish Government recorded pupil capacity for Belmont Academy and the roll/spare capacity year on year since 2011. As outline above, 2011 represents the first year after the first new homes were completed at Greenan and the year it is anticipated that new pupils from the subject site would have started entering the school.

**TABLE 5**

| <b>Belmont Academy</b> | <b>Capacity</b> | <b>Total pupils</b> | <b>S1</b> | <b>S2</b> | <b>S3</b> | <b>S4</b> | <b>S5</b> | <b>S6</b> | <b>Spare Capacity</b> |
|------------------------|-----------------|---------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------------------|
| <b>2011</b>            | <b>1300</b>     | 1296                | 221       | 231       | 234       | 233       | 203       | 174       | 4                     |
| <b>2012</b>            | <b>1300</b>     | 1309                | 232       | 224       | 236       | 232       | 215       | 170       | -9                    |
| <b>2013</b>            | <b>1300</b>     | 1269                | 217       | 234       | 229       | 235       | 197       | 157       | 31                    |
| <b>2014</b>            | <b>1300</b>     | 1250                | 233       | 216       | 230       | 230       | 209       | 132       | 50                    |
| <b>2015</b>            | <b>1300</b>     | 1266                | 229       | 230       | 216       | 237       | 202       | 152       | 34                    |
| <b>2016</b>            | <b>1300</b>     | 1268                | 232       | 231       | 231       | 215       | 214       | 145       | 32                    |
| <b>2017</b>            | <b>1300</b>     | 1263                | 206       | 236       | 234       | 242       | 199       | 146       | 37                    |
| <b>2018</b>            | <b>1300</b>     | 1221                | 213       | 209       | 235       | 238       | 198       | 128       | 79                    |
| <b>2019</b>            | <b>1300</b>     | 1237                | 231       | 222       | 210       | 233       | 198       | 143       | 63                    |
| <b>2020</b>            | <b>1300</b>     | 1251                | 226       | 232       | 218       | 213       | 209       | 153       | 49                    |
| <b>2021</b>            | <b>1300</b>     | 1211                | 202       | 226       | 233       | 220       | 182       | 148       | 89                    |
| <b>2022</b>            | <b>1300</b>     | 1206                | 231       | 201       | 232       | 233       | 191       | 118       | 94                    |
| <b>2023</b>            | <b>1300</b>     | 1211                | 218       | 225       | 200       | 230       | 195       | 143       | 89                    |
| <b>2024</b>            | <b>1300</b>     | 1192                | 220       | 215       | 219       | 203       | 194       | 141       | 108                   |

As illustrated above, Belmont Academy was over capacity in 2012 by 9 pupils. However, numbers have been generally declining since then, resulting in 108 spare pupil places in 2024. The figures above illustrate that there appears to be adequate capacity to accommodate children from the development.

The applicant submitted information in relation to pupil generation for the subject site projected forward to 2031 as this is when current P1s will enter S1. The applicant contends that as the site was completed in 2024 that the enhanced pupil numbers generated by children from the Greenan development are already in the system. The Council's Education Services do not dispute this reasoning. Table 6 below illustrates the applicant's anticipated school roll for Belmont Academy.

**TABLE 6**

| Belmont Academy                               |      | Roll | S1  | S2  | S3  | S4  | S5  | S6  | Capacity |      |
|-----------------------------------------------|------|------|-----|-----|-----|-----|-----|-----|----------|------|
| Actual Scot Gov recorded pupil by stage       | 2011 | 1296 | 221 | 231 | 234 | 233 | 203 | 174 | 4        | 100% |
|                                               | 2012 | 1309 | 232 | 224 | 236 | 232 | 215 | 170 | -9       | 101% |
|                                               | 2013 | 1269 | 217 | 234 | 229 | 235 | 197 | 157 | 31       | 98%  |
|                                               | 2014 | 1250 | 233 | 216 | 230 | 230 | 209 | 132 | 50       | 96%  |
|                                               | 2015 | 1266 | 229 | 230 | 216 | 237 | 202 | 152 | 34       | 97%  |
|                                               | 2016 | 1268 | 232 | 231 | 231 | 215 | 214 | 145 | 32       | 98%  |
|                                               | 2017 | 1263 | 206 | 236 | 234 | 242 | 199 | 146 | 37       | 97%  |
|                                               | 2018 | 1221 | 213 | 209 | 235 | 238 | 198 | 128 | 79       | 94%  |
|                                               | 2019 | 1237 | 231 | 222 | 210 | 233 | 198 | 143 | 63       | 95%  |
|                                               | 2020 | 1251 | 226 | 232 | 218 | 213 | 209 | 153 | 49       | 96%  |
|                                               | 2021 | 1211 | 202 | 226 | 233 | 220 | 182 | 148 | 89       | 93%  |
|                                               | 2022 | 1206 | 231 | 201 | 232 | 233 | 191 | 118 | 94       | 93%  |
|                                               | 2023 | 1211 | 218 | 225 | 200 | 230 | 195 | 143 | 89       | 93%  |
|                                               | 2024 | 1192 | 220 | 215 | 219 | 203 | 194 | 141 | 108      | 92%  |
| Pupils from new homes programmed for delivery | 2025 | 1191 | 221 | 220 | 215 | 219 | 177 | 140 | 109      | 92%  |
|                                               | 2026 | 1217 | 243 | 221 | 220 | 215 | 191 | 127 | 83       | 94%  |
|                                               | 2027 | 1237 | 229 | 243 | 221 | 220 | 187 | 137 | 63       | 95%  |
|                                               | 2028 | 1260 | 241 | 229 | 243 | 221 | 191 | 135 | 40       | 97%  |
|                                               | 2029 | 1270 | 227 | 241 | 229 | 243 | 192 | 138 | 30       | 98%  |
|                                               | 2030 | 1221 | 174 | 227 | 241 | 229 | 211 | 138 | 79       | 94%  |
|                                               | 2031 | 1187 | 194 | 174 | 227 | 241 | 199 | 152 | 113      | 91%  |

To work out future school rolls, Lichfields (on behalf of the applicant) took the figures for each known school year group from the feeder schools and transitioned them into S1 at the appropriate time (i.e. 2022 P1 pupils into S1 in 2029). The table illustrates that the school roll will peak again in 2029 at 98% capacity but that it will then start to decrease and by 2031, there will be 113 spare pupil places. It should also be noted that the school is able to operate at this capacity given it has been operating at over 90% since 2011. Education Services have not questioned this methodology. It can therefore reasonably be stated that as the majority of pupils from the development at Greenan are now in the school system that the most significant pupil generation impact will have already occurred.

The Council's Report to the Service and Partnership Performance Panel of 20 August 2024 stated: "*Legal Agreements also set timescale for when contributions require to be spent. Developer contributions unspent within specified time periods require to be returned to the developer. Planning, Education and Professional Design Services are working together to ensure that the balances noted in table 1 (Greenan unspent contributions at that time was £5,899,028.73) will be utilised to mitigate the impact of the developer (sic) as intended in respective legal agreements. There is a risk that some of the contributions from the Greenan development will not be able to be spent and will require to be returned in 2027/28. This is due to the school rolls for Kyle Academy and St John's being lower than projected. In the event that money requires to be returned, the interest that the Council has collected on that money also requires to be returned. There is currently no other identified further cases of risk.*"

Following a robust assessment, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that retaining these unspent contributions is not necessary and would be unreasonable.

### Conclusion

The applicant has applied to modify the Section 75 Agreements to delete the words “within 5 (five) years of the last payment” in Clause 4.1.8 (last completed dwelling) and to delete the existing wording in clause 4.1.9 and replace it with the following: *“Contributions received under Clause 4.1 but not committed to or spent on the extension, or other alternative works as aforesaid by 18<sup>th</sup> February 2025, and all accrued interest thereon shall be repaid by the Council to MacTaggart and Mickel Homes limited by 30<sup>th</sup> July 2025 or, if later, 28 days after it is agreed or determined that such contributions have not been spent in accordance with the terms of the Agreement”*.

The Council's recently approved budget does not commit any of the contributions towards any specific education project required as a result of the Greenan development, with no project identified by the Council over the next two financial years.

495 homes were consented (of which 494 have been built) and it was envisaged that the predicted number of pupils in the local schools would increase as a result, with the developer agreeing to pay money towards education infrastructure at local schools. However, the number of children associated with the development has been significantly less than expected, the result being that some money paid by the developer has not been required to be spent.

The occupancy of Doonfoot Primary is currently 366, with a capacity of 459, St John' Primary has current occupancy of 237 with a capacity of 394 and Belmont Academy is currently operating at approximately 12% spare capacity and future projections not rising above 98% capacity. While it is possible that the school population demographic could spike within the next 4 years, the evidence points to this being highly unlikely. In view of the available evidence in respect of pupil numbers/projections and school capacities within the catchment (and at Kyle Academy which is outwith the catchment), together with the content of Circular 4/2025 in relation to Planning Obligations, it is considered that the Council cannot reasonably retain the unspent education developer contributions associated with the Greenan development.

Following a robust assessment against Circular 4/2025, the evidence available and other considerations such as the Development Plan and representations from interested parties, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that the development is unlikely to give rise to any future impacts on the local educational infrastructure that would require to be mitigated in order to make the development acceptable. The Planning Authority has obtained KC legal opinion on this matter which indicates that there would be little evidence to justify the retention of the unspent contributions. It is therefore considered that retaining these unspent contributions is not necessary and would be unreasonable. It is recommended that the applicants proposed wording to modify the S75 Agreements is approved.

## **12. Recommendation:**

It is recommended that the application is approved. The decision shall be reported to Cabinet for noting due to financial implications for the Council.

### **Reason for Decision:**

In view of the available evidence in respect of pupil numbers/projections and school capacities within the catchment (and at Kyle Academy which is outwith the catchment), and having considered the tests within Circular 4/2025 in relation to Planning Obligations, the Development Plan and representations from interested parties, it has been concluded that retaining these unspent contributions is not necessary and would be unreasonable. The Planning Authority has obtained KC legal opinion on this matter which indicates that there would be little evidence to justify the retention of the unspent contributions. It is recommended that the applicants proposed wording to modify the S75 Agreements is approved.

### **Advisory Notes:**

None.

**List of Determined Plans:**

Drawing - Reference No (or Description): Location Plan 264.30/PA/SP01 Rev: 0

**Background Papers:**

- Application form, plans and supporting documents.
- National Planning Framework 4 (NPF4).
- South Ayrshire Local Development Plan 2 (LDP2).
- Circular 4/2025 - Planning Obligations and Good Neighbour Agreements.
- Section 75 Legal Agreement associated with 09/00683/OUT.
- Section 75 Legal Agreement associated with 18/00311/FURM.
- Education Capacity Assessment (Lichfields, September 2025) – on behalf of the applicant.
- Council's 2009 Education Impact Assessment.
- Council's Recent Postcode Analysis.
- Representations received.
- Consultation response received.

**Integrated Impact Assessment:**

The consideration of this planning application sits within a policy framework of the Council's Local Development Plan 2 and National Planning Framework 4. These have been the subject of Equalities Impact Assessments which considered how the policies may impact on protected characteristics. Therefore, no separate Integrated Impact Assessment is required.

**Person to Contact:**

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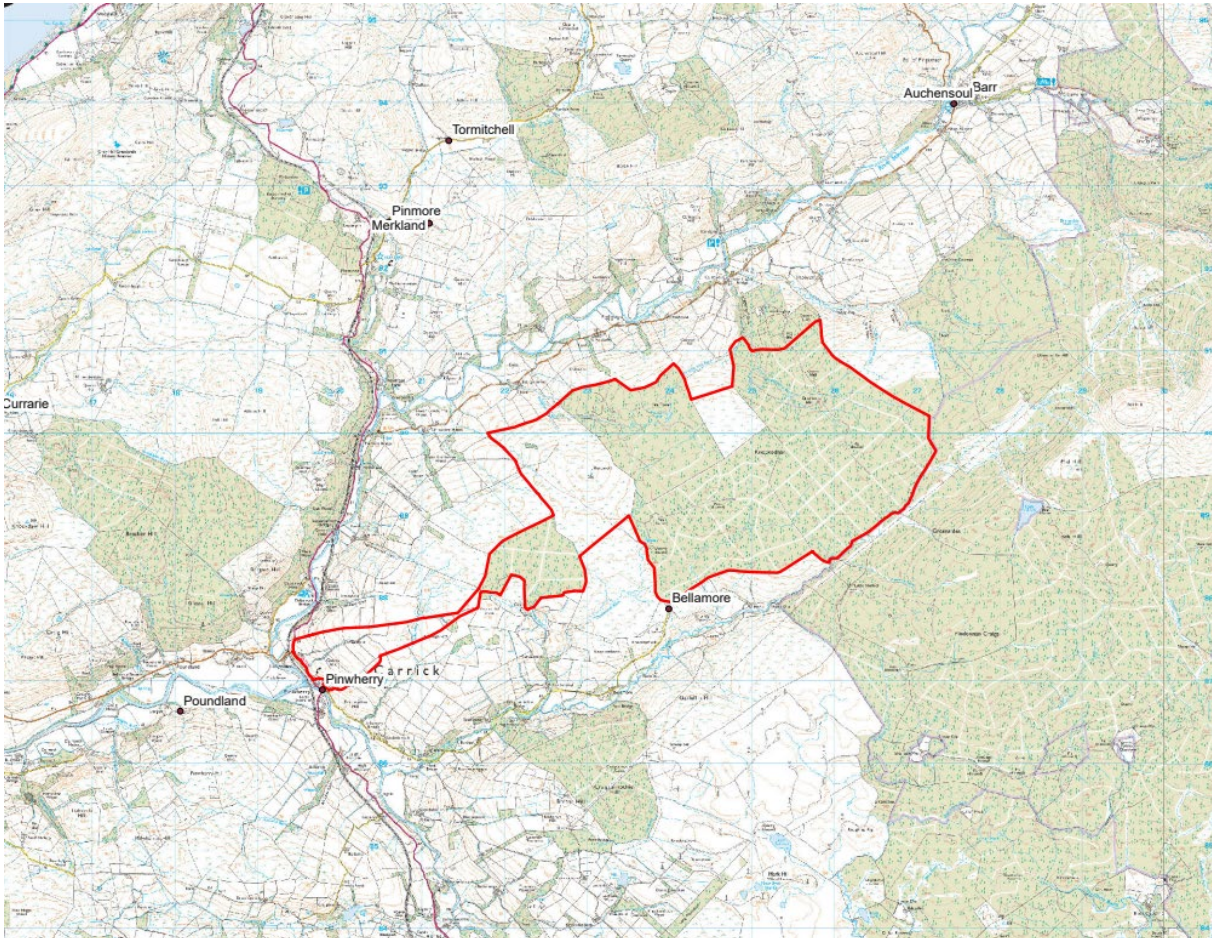
**REGULATORY PANEL: 5 FEBRUARY 2026**

**REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT**

**23/00472/DEEM**

**KNOCKODHAR WINDFARM NEAR PINMORE AND BARR VILLAGES**

**Location Plan**



**Summary**

This Section 36 application was previously reported to the Council's Regulatory Panel (Planning) on 15 May 2025 with a recommendation to object based on roads grounds, following consultee feedback from the Ayrshire Roads Alliance (ARA). The Panel agreed with the recommendation to object and submit the Council's response as a consultee to the determining authority, the Energy Consents Unit (ECU) on 16 May 2025.

In addition, the ECU received objections from key stakeholders of SEPA and Scottish Forestry. In response to the objections from SEPA and Scottish Forestry, the Applicant has amended the layout of the Proposed Development to reduce the volume of peat that requires to be excavated and to also reduce the amount of forestry that requires to be felled. These are not matters to be referred back to the Panel for further consideration, rather these issues will be considered and assessed by the ECU as the Determining Authority.

In response to the Council's objection, the Applicant has provided Additional Information (AI) to address the traffic and transport issues. An Abnormal Indivisible Loads Route Survey Report detailing the route to site for abnormal indivisible loads (AIL); detailed swept path analysis and the provision of vehicle axle weights was submitted to allow ARA to consider potential impacts of construction traffic upon local roads and adopted structures has been submitted.

Further work has been carried out in relation to the number of HGVs that will be required to import construction aggregate to the site. This work was informed by testing samples of borrow pit material and an Updated Borrow Pit Assessment. Using the findings of those tests, the Updated Transport Assessment is now based upon the need to import 31.5% of the total aggregate requirement to site, with the remainder being won within the two retained onsite borrow pit search areas.

The original Transport Assessment assumed that 70% of all material would be imported to site. The results of this the Updated Transport Assessment will see a reduction in peak construction vehicles movements from 162 per day associated with the Proposed Development to 112 vehicles per day as part of the Revised Proposed Development. Peak construction traffic would result in 68 HGV movements per day, which represents a 42% reduction in HGV traffic compared to the previous Proposed Development figures.

Following assessment of the Additional Information, Ayrshire Roads Alliance (ARA) as the Local Roads Authority concluded that there is now sufficient information (in particular, Abnormal Load movements) to allow for them to adequately assess the impacts on the adopted local road network and conclude that it can safely accommodate the proposed development trips. It should be noted that the proposed AIL route involves approximately 1.2km of track which currently does not exist between the A714 prior to entering the village of Barrhill and the unclassified road close to Barrhill Railway Station. This road would be subject to a planning application and would be assessed on its merit.

Overall, when assessed against the Development Plan, the proposal aligns with the intent of primary NPF4 policies and LDP2 which seek to address the climate emergency through promoting development that minimises emissions to achieve zero carbon, restore the natural environment and adapts to the current and future impacts of climate change.

Having considered the application submission as a whole with the identified benefits of the scheme, together with the responses received including the updated position from ARA and having balanced the developers' interest against the wider community interest, the proposal is considered to be acceptable in principle. As is the now agreed position in regard to S36 consultations, it is recommended that the Council maintains our objection to the proposal unless the conditions set out below are imposed in their entirety, unless suitable alternative conditions are agreed in writing between the Energy Consents Unit and the Planning Service.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

### REGULATORY PANEL: 5 FEBRUARY 2026

|                         |                                                                                                                                                                                                                                                      |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SUBJECT:</b>         | <b>CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989</b>                                                                                                                                                                                     |
| <b>APPLICATION REF:</b> | <b>23/00472/DEEM</b>                                                                                                                                                                                                                                 |
| <b>SITE ADDRESS:</b>    | <b>KNOCKODHAR WIND FARM, PINMORE SOUTH AYRSHIRE</b>                                                                                                                                                                                                  |
| <b>DESCRIPTION:</b>     | <b>APPLICATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR PERMISSION TO ERECT AND OPERATE KNOCKODHAR WIND FARM</b>                                                                                                                             |
| <b>RECOMMENDATION:</b>  | <b>MAINTAIN OUR OBJECTION TO THE PROPOSAL UNLESS THE CONDITIONS SET OUT IN THE APPENDIX ARE IMPOSED IN THEIR ENTIRETY OR THAT SUITABLE ALTERNATIVE CONDITIONS ARE AGREED IN WRITING BETWEEN THE ENERGY CONSENTS UNIT AND THE PLANNING AUTHORITY.</b> |

### ADDENDUM TO APPLICATION REPORT

This addendum report together with the original report to Regulatory Panel on 15 May 2025 fulfils the requirements of Schedule 8, Part 2, Paragraph 2 (a) and Paragraph 4 of The Electricity Act 1989. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Section 36 of the Electricity Act applications.

#### **1. Purpose:**

- 1.1 South Ayrshire Council has been reconsulted by The Scottish Government Energy Consents Unit (ECU), under Section 36 of The Electricity Act 1989, regarding an application by REG Knockodhar Limited for the erection and operation of a wind farm, and associated infrastructure at Knockodhar, near Pinmore, South Ayrshire.
- 1.2 This Section 36 application was previously reported to the Council's Regulatory Panel (Planning) on 15 May 2025 with a recommendation of objection based on roads grounds following consultee feedback from Ayrshire Roads Alliance (ARA). The Panel agreed with the recommendation to object and submit the Council's response as a consultee to the determining authority, the Energy Consents Unit (ECU) on 16 May 2025.
- 1.3 In response to the objection, the Applicant has submitted further information to address the traffic and transport matters. A Route Survey Report detailing the route to site for abnormal indivisible loads (AIL) has been submitted and further assessment work has been carried out in relation to the number of HGVs that will be required to import construction aggregate to the site.
- 1.4 The Council is not the determining authority for this proposal. This report sets out the proposed response to The Scottish Government's reconsultation which was issued on 14 November 2025. An extension of time to 6 February 2026 has been agreed for South Ayrshire Council to provide its further consultation response.
- 1.5 Under the Council's Scheme of Delegation , all Section 36 consultation responses prepared by the Council require to be referred to the Regulatory Panel (Planning).

- 1.6 Under the Electricity Act 1989, Schedule 8, Part 2, Paragraph 2 (a), where the relevant Planning Authority notifies the Scottish Ministers that they continue to object to the application and their objection is not withdrawn, it will result in a Public Inquiry to be held.

## 2. Recommendation

- 2.1. It is recommended that the Regulatory Panel:

- Submits this report to The Scottish Government Energy Consent Unit as a position of maintaining our objection on behalf of the Planning Authority to the Section 36 application for the proposed development (ECU Reference: ECU00002153) unless the conditions set out in the appendix below are imposed in their entirety or that suitable alternative conditions are agreed in writing between the Energy Consents Unit and the Planning Service.
- Approves delegated authority to officers of the Planning Service to conclude planning conditions with the Scottish Government Energy Consents Unit, in writing, should the Scottish Ministers be minded to grant consent under Section 36 of the Electricity Act 1989 and deemed planning permission pursuant to Section 57 (2) of the Town and Country Planning (Scotland) Act 1997.

## 3. Background and Procedural Matters

- 3.1 The Regulatory Panel Report of 15 May 2025 is attached as an appendix to this report. In this report, the Planning Service recommended that the Council object to the application on the following grounds:

*‘The uncertainty of the proposed developments impact on the local road network and adopted structures is considered to be of sufficient material consideration to warrant an objection by the Council.’*

- 3.2 Following a review of consultation responses from South Ayrshire Council (SAC), Scottish Environment Protection Agency (SEPA) and Scottish Forestry, the Applicant has proposed changes to the layout of the Proposed Development.
- 3.3 The applicant considers that the proposed changes to the layout in terms of new build infrastructure, are relatively minor in scale. The number and heights of turbines remain the same as originally proposed and the operational life of the Proposed Development remains at 35 years.
- 3.4 The main changes to the layout of the Proposed Development relate to the movement of some turbines, the reorientation of some crane pads and associated changes to some of the originally proposed access tracks and re-orientation of some construction compounds. The Applicant is also proposing to delete two of the four originally proposed borrow pit search areas and there is a significant reduction in the area of commercial forestry to be felled.

### Environmental Impact Assessment

- 3.5 The proposed changes have been subject to Environmental Impact Assessment (EIA), with the updated details set out and assessed in an Additional Information (AI) Report, which modifies and updates some of the findings of the previously submitted EIA Report, reflective of the changes to the layout of the Proposed Development.

## 4. Revised Development Proposal

- 4.1 The proposed development is largely unchanged and comprises the construction and operation of 16 wind turbines, an energy storage system, substation and compound, access, and associated infrastructure. Each turbine will be a three bladed with a horizontal axis. Two turbines (T3 and T10) would be 149.9m to blade tip and each have an installed capacity of approximately 4.5MW. The remaining 14 turbines (between 180m and 200m to blade tip height) will each having an installed capacity of approximately 6MW. The overall anticipated generating capacity of the wind farm would be approximately 93MW.
- 4.2 The proposed changes are that four wind turbines have changed position between the Proposed Development and Revised Proposed Development, specifically proposed turbines T4, T11, T12 and T15. Three of the relocated turbines are within the requested 75m micro-siting tolerance, with one turbine (T15) relocated by circa 100m to the east. The coordinates of the remaining 12 turbines are unchanged.

4.2 Full details of the proposed development can be summarised as the following:

- 16 wind turbines of variable tip height with the maximum being up to 200 metres (m);
- turbine foundations;
- areas of hardstanding at each turbine for construction purposes;
- an Energy Storage System (ESS) compound, up to 20 MW;
- a 132 kilovolt (kV) substation and compound, including control building;
- a network of buried cables;
- two accesses from the A714, one for abnormal loads only (which would require a separate planning application);
- a network of new (10.7km) and upgraded (up to 7.3km) access tracks throughout the site (totalling up to 18km),
- 13 watercourse crossings (six new and seven existing to be upgraded);
- 2 temporary borrow pits, located within identified borrow pit search areas.

## 5. Assessment

5.1 The assessment of this application remains as outlined in the report put before the Regulatory Panel on 15th May 2025 (attached as an appendix to this report), with the exception of the South Ayrshire Council Internal Consultee responses from ARA and Environmental Health (in relation to Private Water Supply).

5.2 The purpose of this addendum report is to assess the proposed changes made by the applicant in response to the objection by the Council in May 2025.

### Landscape & Visual

5.3 AI Report Chapter 7 – Landscape and Visual Impact Assessment examined the new turbine locations and concluded there were no material consequence in terms of Landscape and Visual Impact.

5.4 Three of the relocated turbines are within the requested 75m micro-siting tolerance, with one turbine (T15) relocated by circa 100m to the east. The coordinates of the remaining 12 turbines are unchanged. It is unclear if the AI Report fully assessed the new positions as most are within the proposed micro-siting distance. However, it is considered necessary to restrict further micro-siting from both a landscape and visual perspective but also in relation to protection of nearby private water supplies (PWS).

### Traffic & Transport

5.5 The relevant Development Plan policies are:

- **NPF4 Policy 13 – Sustainable Transport** - Seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- **LDP2 Policy: Land use and Transport part (b)** - Take appropriate measures to keep any negative effects of road traffic on the environment to a minimum.
- **Wind Energy Planning Policy Guidance part (c)** – aims to protect residential amenity in terms of traffic and transport routes.

5.6 ARA responded to the reconsultation on 11<sup>th</sup> December 2025 following a review of the additional information submitted by the applicant.

### Site Access

5.7 The Proposed Development includes two access points onto the adjacent public road network. The main site access is at the existing “Muck Road” access located at the junction of the A714/B734 (at Arnimean). An abnormal load entry access point located at the A714 Barrhill Road/ A714 Main Street/ Ligiartrie junction is also proposed and it should be noted that this would be subject to a separate planning application.

5.8 From examination of the detail provided by the Applicant, ARA understands that the abnormal load entry access point is intended to be used for AIL movement arrivals only, with departing AILs leaving via the main site access.

5.9 Whilst the proposed main access opposite the B734 is an existing and established access onto the public road network, the development proposals will see a significant intensification of use at this location. As such, ARA recommend that measures are required to be taken to cut back all vegetation within the applicant's control to maximise achievable visibility splays.

- 5.10 ARA also recommend that mitigation in the form of additional warning signage compliant to the Traffic Signs Regulations and General Directions 2016 (TSRGD) is erected on public road approaches to the access point on both directions of the A714 and the B734. This mitigation detail can be captured within the Construction Traffic Management Plan (CTMP) that is recommended as a condition to form part of any consent issued by the ECU.

### **Construction Traffic**

- 5.11 The applicant's indicative construction programme is over 20 months, with close to 33,000 vehicle trips anticipated over the programme. This includes close to 17,000 HGV movements, which includes requirements for imported materials, with estimates now revised down from an initial estimate of 70% to 31.5% based on the quality of stone that is able to be won from on-site borrow pits.
- 5.12 In terms of numbers of Abnormal Indivisible Loads (AILs), this will be in excess of 500 AIL vehicle trips over the construction programme, consisting both cranes and turbine component deliveries.
- 5.13 Peak construction time period is anticipated to occur in Month 9 of the applicants construction programme, with 68 HGV movements per day (34 inbound and 34 outbound) and 46 Car / Light Goods Vehicles (LGV) movements (23 inbound trips and 23 outbound trips). The distribution of construction traffic on the network would vary depending on the types of loads being transported. The applicants suggestions for the distribution of construction traffic during the peak month are:
- All construction traffic enters the site via the northern site access junction (except for AIL traffic that arrives at the southern junction)
  - Deliveries associated with the batching of concrete and delivery of aggregate used in the construction of the site infrastructure are likely to arrive from the north via the A714
  - No bulk material deliveries will arrive from the south through Barrhill
  - A finalised Construction Traffic Management Plan (CTMP) will be required by ARA and is sought by the attachment of an associated planning condition. The CTMP shall be required to confirm all the exact material supplies required once the contractor has engaged with all suppliers.
  - HGV deliveries associated with the high voltage (HV) electrical installation, control buildings, energy storage system (ESS), etc will arrive via the south
  - It is anticipated that staff working at the site are likely to be based locally. It is assumed that 50% are likely to be based north of Pinwherry in and round Girvan and 50% to the south, in and around Newton Stewart; and
  - General site deliveries will be from the north of Pinwherry. These are generally smaller rigid HGV vehicles.
- 5.14 With the above controls, agreements and mitigation measures, ARA are now satisfied that the Proposed Development in relation to construction traffic is generally acceptable, subject to conditions that will require to be issued within any consent issued by the ECU and enforced by the Council.

### **Abnormal Indivisible Loads (AILs):**

- 5.15 The AIL port of origin and access route will be confirmed once the turbine selection has been confirmed; however, ARAs review has been based on the following route for AIL deliveries:
- Port of Cairnryan/ A77/ A751/ A75/ A714/ Kilgallioch Wind Farm Access Track/ C72/ New AIL access track/ A714/ AIL Site Access.
- 5.16 ARA have advised that all AIL access to the site shall require to be directed to the southern access junction. The applicant's intention is to pursue the proposed access route from the south via the A75, A714, Arecleoch Wind Farm access track, C72, Gowlands Terrace. A separate planning application will also be required to be submitted detailing the proposed new AIL access road from the A714 to the C72, Gowlands Terrace.
- 5.17 ARA therefore recommend conditions to be included with any consent in relation to required road improvements to accommodate AIL movements on roads within its control, including the C72, Gowlands Terrace and the A714.
- 5.18 Any road improvements outside adopted road limits required for the safe movement of AILs shall require to be managed and maintained by the Applicant for the duration of the development. Agreement with ARA will be required in relation to required mitigation measures for the safe passage of AILs located within adopted road limits.

- 5.19 ARA also requires that structural assessments, and any mitigation deemed appropriate because of the results of the assessments, shall be undertaken prior to the movement of the first AIL. The cost of all such improvements shall require to be fully borne by the Applicant.

### **Cumulative Impact**

- 5.20 A total of three other consented wind farm developments are located in the same general area as the development proposals – these are:
- Kilgallioch Wind Farm Extension;
  - Chirmorie Wind Farm (bridge abutment and platform works only); and
  - Arecleoch Wind Farm Extension
- 5.21 ARA advise that careful monitoring of traffic impacts on the A714 will be needed to ensure that road safety is not compromised. They do advise through that the A714 provides an arterial route in the area, and as such is the only viable route option for most trips..

### **Proposed Mitigation**

#### Construction Phase

- 5.22 ARA in their consultation response have provided a range of advisory notes and planning conditions that cover a range of measures and controls, which seek to minimise the impacts on the public road network wherever practicable. A summary of these are listed below and will require to be included within any consent issued by the ECU.

- **AIL Route** - The AIL route to/from site will be subject to requirements for various mitigation measures including road widening, requiring a combination of land within adopted road limits and third-party land at various points along the proposed route. Details for these mitigation measures to the AIL route will require to be submitted for approval by ARA, with measures fully implemented prior to the first AIL movements.
- **CTMP** – having an approved CTMP will be a critical in setting out the controls to be set in place and monitored throughout the construction programme. The CTMP will require to include the protocols for ongoing community engagement. It has been proposed that during the construction period this will take the form of a project website, blog or social media feed, which would be regularly updated to provide the latest information relating to traffic movements associated with vehicles accessing the site.

The CTMP shall also require to set out the measures to be deployed to enforce the correct use of construction routes by drivers – this will be a critical area to ensure that traffic impacts faced by the local community are insofar as is practicable minimised.

- **Traffic Management Group** - The submitted Draft CTMP advises of the intention for a Traffic Management Group to be established with the local communities to provide a convenient forum for the discussion of traffic management measures and to review the operation of construction traffic and learn from previous experiences of construction traffic on the local network. The ARA are in favour of such an approach that gives our local communities the opportunity to raise concerns directly with the Developer, and allow corrective actions to be implemented, as appropriate.
- **Section 96 Agreement** – The Applicant/Developer will be required to enter into a Section 96 Agreement under the Roads (Scotland) Act 1984. This will require a bond to be lodged by the Applicant/Developer to provide security in relation to any necessary repairs needed to the affected sections of the local road network because of abnormal wear and tear associated with development construction traffic and/or AIL movements.
- **Road Condition Surveys** - Road condition surveys will also be required by ARA to both ensure a baseline for road network condition is recorded prior to construction and keep a regular record of any impacts to the affected routes throughout the construction programme. ARA would only seek to call on the bond in exceptional circumstances – the expectation is that an agreement is reached whereby a contractor appointed by the Applicant/Developer shall undertake any appropriate repair works. This would also help to ensure any repairs were undertaken as quickly as possible.

### Operational Phase

- 5.23 In general, traffic generated during the operational phase of the development is likely to be negligible and associated with scheduled maintenance duties. ARA advise that any AIL movements for replacement parts are required during the operational phase of development, the same route restrictions, mitigation measures, etc, shall require to be followed unless a variation is sought and agreed with Council as Roads Authority.

### **Conclusions on Traffic and Transport**

- 5.24 The proposal has the potential to have adverse effects on the local road network with an increase in vehicles including HGVs during the construction phase. The traffic would largely utilise the trunk road network within Dumfries and Galloway and South Ayrshire. Mitigation is proposed for the trunk road to allow for wind turbine component deliveries and these would be agreed with Transport Scotland. No objection has been raised by Transport Scotland or Dumfries and Galloway Council and the proposed development is therefore considered to be acceptable from a trunk road perspective.
- 5.25 ARA have assessed the potential impacts that the preferred AIL route will have on the local road network and adopted structures. From a local road network perspective, ARA advise that the additional information submitted by the applicant, including the AIL access route assessment for the site, is now to be considered acceptable and they can move from a position of objection. However, it should be noted that the proposed AIL route involves approximately 1.2km of track which currently does not exist between the A714 prior to entering the village of Barrhill and the unclassified road (C72) close to Barhill Railway Station. This road would be subject to a planning application and would be assessed on its merit.
- 5.26 In light of this, the proposal is now considered to comply with the key policy requirements of NPF4 Policy 11 and LDP2 Policy: Land Use and Transport. Based on the review undertaken by ARA, the position of no objection is subject to recommended Advisory Notes and Proposed Conditions. The outcome of this assessment does not prejudice the assessment of any future planning application for the proposed AIL access.

### **Private Water Supply**

- 5.27 Since the original assessment, 4 turbines (T4, T11, T12 and T15) have been micro-sited, as outlined above. The Council's Environmental Health Service originally offered no objection to the proposed development, this position based on the several thorough, professional risk assessments that had been undertaken in relation to PWS and subsequent mitigation instigated by these risk assessments. However, the impact of the micro-siting on PWS has not been re-assessed and it is therefore considered prudent and necessary to attach a condition which restricts the micro-siting of T4, T11, T12 and T15 in order to protect PWS quality/quantity for human consumption.

## **6 Overall S36 Consultation Conclusion**

- 6.1 Having considered the application submission as a whole including the identified benefits of the scheme, together with the consultation responses received (particularly that of the ARA of 11 December 2025) and having balanced the developer's interest against the wider community interest, the proposal is considered to be acceptable in principle. However, the Council's own assessment and the responses of consultees have identified a range of measures that are essential to ensure that the adverse effects are properly mitigated. Accordingly, it is recommended that the Council maintains our objection to the proposal unless the conditions set out below are imposed in their entirety or that suitable alternative conditions are agreed in writing between the Energy Consents Unit and Planning Service.
- 6.2 The previous uncertainty in relation to the impacts on the local road network and adopted structures as a result of the proposed development is considered to be fully addressed by the applicant and is a sufficient material consideration to alter the recommendation of the Council in May 2025. It is noted that a proposed AIL route from the A714 to C72, Gowlands Terrace would be subject to an additional planning application.

### **Recommendation**

- 6.3 Maintain our objection to the proposal unless the conditions set out in the appendix are imposed in their entirety or that suitable alternative conditions are agreed in writing between the Energy Consents Unit and the Planning Service.

## **7. Background Papers**

1. Additional Information submitted by the applicant to the ECU
2. Consultation response from Ayrshire Roads Alliance 11 December 2025
3. Panel Report 15 May 2025
4. National Planning Framework (NPF) 4 - February 2023
5. South Ayrshire Council Local Development Plan 2 - August 2022

## **8. Person to Contact:**

Craig Iles – Service Lead Planning and Building Standards  
Email: [craig.iles@south-ayrshire.gov.uk](mailto:craig.iles@south-ayrshire.gov.uk)

## **Appendix – Conditions & Reasons and Informative Notes for Developer**

- C1: The consent is for a period of 35 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.
- R1: To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of The Planning (Scotland) Act 2006.

### **Commencement of Development**

- C2: The commencement of development shall be no later than five years from the date of this consent. Written confirmation of the intended date of commencement of development shall be provided to the Planning Authority no later than one calendar month before that date.
- R2: To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of The Planning (Scotland) Act 2006.

### **Implementation of Consent**

- C3: That the development hereby granted shall be implemented in accordance with the approved plan(s) and as forming part of this permission unless a variation required by a condition of the permission, or a non-material variation has been agreed in writing by the Planning Authority.
- R3: To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.

### **Turbine Design**

- C4: No turbines shall be erected until details and specification of the proposed wind turbines, (including the size, make and model, power rating and sound power levels, nameplate generating capacity, type, external finish and colour) any anemometry masts and all turbine associated apparatus have been submitted to and approved in writing by the Planning Authority.

For the avoidance of doubt the scale of the turbines shall not exceed the parameters assessed in the EIA Report and Additional Information Report and set out in the description of the Development at Annex 1.

The submission shall demonstrate that all wind turbine blades shall rotate in the same direction.

Thereafter the wind turbines, any anemometry masts and all associated apparatus shall be constructed and operated in accordance with the details approved under part (1) and shall be maintained in the free from external rust, staining or discolouration, until such time as the Development is decommissioned unless otherwise agreed in writing by the Planning Authority.

- R4: To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts assessed in the EIA Report and in the interests of the visual amenity of the area.

### **Sub-station & Ancillary Development**

- C5: There shall be no Commencement of Development on the sub-station until final details of the location, layout, external appearance, dimensions, and surface materials of the substation and control room buildings, any above ground electrical equipment, associated compounds, construction compound, boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the details of the sub-station shall not exceed the parameters assessed in the EIA Report and Additional Information Report.

Thereafter, the substation and control room buildings, any above ground electrical equipment, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under part (1).

- R5: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the Development conform to the impacts assessed in the EIA Report and in the interests of the visual amenity of the area.

## Design of Energy Storage Facility

- C6: There shall be no Commencement of Development on the energy storage facility until details of the location, layout, external finishes and appearance, dimensions and surface materials of the energy storage facility, inclusive of battery containers, substation(s), control buildings, external above ground electrical equipment, associated compounds, construction compound, boundary fencing and other enclosures, external lighting, security cameras and parking areas have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the details of the energy storage facility shall not exceed the parameters assessed in the EIA Report

Thereafter, the battery energy storage facility shall be constructed in accordance with the details approved under part (1) and the infrastructure shall be maintained in the approved colour, free from rust, staining or discolouration until such time as the Development is decommissioned.

- R6: To ensure that the environmental impacts of the energy storage facility forming part of the Development conform to the impacts assessed in the EIA Report and in the interests of the visual amenity of the area.

## Micro-siting

- C7: All wind turbines, buildings, masts, areas of hardstanding, Energy Storage System (ESS) and associated infrastructure and tracks shall be constructed in the locations shown on plan reference [AI 4.1- Proposed Site Layout Ref: 70114311-WSPE-FG-Z-00001\_P01.] and at the grid references for the turbines set out in AI 4.1- Proposed Site Layout Ref: 70114311-WSPE-FG-Z-00001\_P01. The locations of wind turbines, buildings, masts, ESS, areas of hardstanding and tracks may be adjusted by micro-siting within the redline boundary shown on plan reference AI 4.1- Proposed Site Layout Ref: 70114311-WSPE-FG-Z-00001\_P01. Any such micro-siting is subject to the following restrictions unless otherwise approved in advance in writing by the Planning Authority.

- (a) No wind turbine (excluding T4, T11, T12 and T15 – see (e) below), building, mast or hardstanding shall be moved more than 75m from the position shown on plan reference AI 4.1- Proposed Site Layout Ref: 70114311-WSPE-FG-Z-00001\_P01 and at the grid references set out in AI 4.1- Proposed Site Layout Ref: 70114311-WSPE-FG-Z-00001\_P01.
- (b) No access track shall be moved more than 50m from the position shown on plan reference Updated Figure AI 4.2 Proposed Main Site Access Track Ref: 70114311-WSPE-FG-Z-00002\_P01.1.
- (c) No micro-siting shall take place with the result that infrastructure (excluding floating tracks or hardstanding) has a greater overall impact on peat than the original location;
- (d) No infrastructure other than as required for a water course crossing shall be micro-sited to within 50 metres of a water course;
- (e) For the avoidance of doubt, there is no micro-siting allowance for Turbine No's 4; 11; 12 and 15 as shown on plan reference AI 4.1- Proposed Site Layout Ref: 70114311-WSPE-FG-Z-00001\_P01, unless otherwise agreed in writing by the Planning Authority, in consultation with the ECoW, NatureScot and SEPA.

All micro-siting permissible under this condition shall be submitted to and approved in writing by the Ecological Clerk of Works ("ECoW") in advance of any works or development associated with the micro-siting request being implemented.

No later than six months after the Date of First Commissioning, an updated site layout plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

- R7: To control environmental impacts while taking account of local ground conditions and to maintain a secure and adequate water quantity and quality private water supply to all properties dependent on private water supplies that may be affected by the Development.

## **Implementation of mitigation measures**

C8: No development (including the Site Enabling Works) shall commence until a Schedule of Mitigation has been submitted to and approved in writing by the Planning Authority. This Schedule shall encompass a list of all mitigation measures from the EIA Report and Additional Information Report, any other commitments made by the applicant and all relevant mitigation secured by conditions attached to this permission with defined timescales for implementation of each mitigation measure.

Thereafter, the approved Schedule of Mitigation shall be implemented in full unless otherwise approved in writing by the Planning Authority.

R8: To ensure that the identified mitigation through the EIA Report and Additional Information Report is carried out in accordance with the approved details.

## **Planning Monitoring Officer**

C9: (1) There shall be no Commencement of Development until the terms of appointment by the Company of an independent and suitably qualified consultant as Planning Monitoring Officer ("PMO") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:

- (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
- (b) require the PMO to submit a quarterly report to the Planning Authority summarising works undertaken on site, matters of compliance or otherwise with the terms of the deemed planning permission and conditions attached to it, alongside a summary of the incidents recorded and reported by the ECoW and GCoW; and
- (c) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity, and no later than 10 working days following the incidence of non-compliance.

(2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.

(3) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a and suitably qualified consultant as PMO by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to and approved in writing by the Planning Authority.

(4) The PMO shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

R9: To ensure compliance with the planning permission and the conditions attached to it.

## Ecological Clerk of Works

C10: (1) There shall be no Commencement of Development until the terms of appointment of a suitably qualified, experienced, and independent Ecological Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:

- (a) impose a duty to monitor compliance with the ecological and hydrological commitments provided in Schedule of Mitigation - AI Report Volume 1 Chapter 20 Summary of Mitigation, any micro-siting approved under condition 7, the Construction and Environmental Management Plan approved under condition 13; the Habitat Management Plan approved under condition 17; bird protection plans approved under condition 20, and consider and approve any micro-siting requests in accordance with the provisions of condition 11 ("the ECOW works");
- (b) require the ECOW to report to the nominated construction project manager any incidences of non-compliance with the ECOW works at the earliest practical opportunity;
- (c) require the ECOW to submit a quarterly report to the Planning Authority summarising works undertaken on site; and
- (d) require the ECOW to report to the Planning Authority any incidences of non-compliance with the ECOW works at the earliest practical opportunity, and no later than 5 working days following the incidence of non-compliance.

(2) The ECOW shall be appointed on the terms approved under part (1) throughout the period from pre-construction works, Commencement of Development to completion of construction works and post-construction site reinstatement works.

(3) No later than 18 months prior to either decommissioning of the Development or the expiration of the section 36 consent (whichever is the earlier), the Company shall submit details to the Planning Authority, of the terms of appointment by the Company of an independent ECOW throughout the decommissioning, restoration and any aftercare phase of the Development, shall be submitted to and approved in writing by the Planning Authority.

(4) The ECOW shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

R10: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the construction, post-construction restoration, decommissioning, restoration and aftercare phases.

## Environmental Clerk of Works

C11: (1) There shall be no Commencement of Development until the terms of appointment of an independent Environmental Clerk of Works ("EnvCoW") by the Company have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:

- (a) impose a duty to monitor compliance with the environmental commitments provided in the EIA Report, any micro-siting under condition 7, the Construction and Environmental Management Plan approved under condition 13, the Habitat Management Plan approved under condition 17], any species or habitat management plans identified in the EIA Report and Additional Information Report, and other plans approved under condition 11 ("the EnvCoW works");
- (b) require the EnvCoW to report to the nominated construction project manager, developer and Planning Authority any incidences of non-compliance with the EnvCoW works at the earliest practical opportunity;
- (c) require the EnvCoW to submit a monthly report to the construction project manager, developer and Planning Authority summarising works undertaken on site.

(2) No later than 18 months prior to either decommissioning of the Development or the expiration of the section 36 consent (whichever is the earlier), the Company shall submit details to the Planning Authority, of the terms of appointment by the Company of an independent EnvCoW throughout the decommissioning, restoration and any aftercare phase of the Development, shall be submitted to and approved in writing by the Planning Authority

(3) the EnvCoW shall be appointed on the terms approved under part (2) throughout the decommissioning, restoration and aftercare phases of the Development.

R11: To secure effective and transparent monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the construction, decommissioning, restoration and aftercare phases

### **Geotechnical Clerk of Works**

C12: (1) There shall be no Commencement of Development until the terms of appointment by the Company of an independent and suitably qualified engineer as a Geotechnical Clerk of Works ("GCoW") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:

- (a) impose a duty to monitor compliance with the Construction and Environmental Management Plan approved under condition 13, the Peat Management Plan, the Peat Landslide Risk Management Plan, and consider and approve any micro-siting requests in accordance with the provisions of condition 12 ("the GCoW works");
- (b) require the GCoW to report to the Planning Authority and nominated construction project manager any incidences of geotechnical risks at the earliest practical opportunity, and no later than 5 working days following the incidence of non-compliance; and
- (c) require the GCoW to report to the Planning Authority any incidences of peat land slips at the earliest practical opportunity to SEPA where there is a direct risks to the water environment, and no later than 5 working days following the incidence of peat land slips.

(2) The GCoW shall be appointed on the terms approved under part (1) throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.

(3) No later than 18 months prior to either decommissioning of the Development or the expiration of the section 36 consent (whichever is the earlier), the Company shall submit details of the terms of appointment of a suitably qualified engineer as a GCoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to and approved in writing by the Planning Authority.

(4) the GCoW shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

R12: To secure effective monitoring of and compliance with the mitigation related to geotechnical matters, particularly peat land slip and management measures associated with the Development during the construction, post-construction restoration, decommissioning, restoration and aftercare phases.

### **Construction and Environmental Management Plan**

C13: (1) There shall be no Commencement of Development until a Construction and Environmental Management Plan (CEMP) containing site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot and SEPA. The CEMP shall be informed by the site and ground investigation works and best practice guidance.

(2) The CEMP shall provide:

- (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat and other carbon rich soils), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment, evidencing all proposals comply with SEPA's guidance and the requirements of the waste management licensing regime as appropriate;
- (b) details of the location, layout, formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil, fuel and chemical storage, lighting columns, and any construction compound boundary fencing required for the construction period;
- (c) a dust management plan detailing all mitigation/dust suppression measures intended to reduce the impacts of dust on site, including measures to reduce dust on roads;

- (d) site specific details for management and operation of any concrete batching plant (including disposal of pH-rich waste water and substances);
- (e) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (f) a Pollution Prevention and Incident Plan incorporating a Pollution Prevention Plan, Pollution Incident Plan and a Pollution Control Monitoring Plan, this shall provide measures to protect watercourses, groundwater, management of natural surface hydrological flows (flushes, springs, etc.) and protection of peatland/soils, arrangements for the storage and management of oil and fuel and other chemicals on the site and sewage disposal and treatment;
- (g) details of soil storage and management including outline quantities, locations (other than peat and other carbon rich soils) management of long term storage of construction generated to facilitate future site restoration;
- (h) a drainage management strategy, demonstrating how all surface and waste water arising during and after construction is to be managed and prevented from impacting on the water environment and to mitigate flood risk;
- (i) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (j) details of temporary site illumination, including measures to ensure light spill/pollution is minimised and avoids habitats within the site and does not extend beyond the immediate working area, and not beyond the site boundary;
- (k) Protected Species Plan. The Plan shall be informed by [insert protected species] surveys carried out by a suitably qualified person. The surveys shall inform the mitigation measures required to protect [insert protected species] during construction of the Development. The Plan shall provide mitigation measures, as required, and a timetable for implementation.
- (l) details of the construction of the access into the site, including associated drainage and the creation and maintenance of associated visibility splays;
- (m) Site-specific Construction Method Statements for the following:
  - i. crane pads;
  - ii. turbine foundations;
  - iii. working cable trenches;
  - iv. erection of the wind turbines and meteorological masts;
  - v. Energy storage compound formation and installation of energy storage equipment;
  - vi. Substation compound formation, erection of associated buildings and ancillary infrastructure;
  - vii. watercourse crossings including full details and plans of the design and specification of all new and upgraded watercourse crossings to be constructed, ensuring continuous flow and fish passage with no hanging culverts, noting all crossings shall be oversized bottomless arched culverts or traditional style bridges;
- (n) details of post-construction restoration/reinstatement of the working areas not required during the operation of the Development;
- (o) Historic Environment Protection Plan including details of protective fencing of the location of the historic environment features to be protected during construction works, including appropriate buffers;
- (p) a wetland ecosystems survey and mitigation plan;
- (q) a tree felling and management plan;

- (r) A Construction Noise Management Plan including details of the management of noise and vibration during construction and post-construction restoration, including that caused by construction traffic, to the lowest practicable levels and in accordance with BS 5228:2009 “Code of Practice for noise and vibration control on construction and open sites – Part 1: Noise and Part 2: Vibration” (or any updated version/document which superseded this document) and how any properties likely to be affected by construction noise will be kept informed;
- (s) Construction Method Statements for all roads/tracks to be altered/formed within the development site including their width, likelihood of widening or passing places, means of drainage (which shall have regard to SUDS principles), means of construction, and edge reinstatement including verge width. The specification shall be accompanied by relevant plans at a scale sufficient;
- (t) the cable trenches;
- (u) A phasing plan for the construction works; and
- (v) A written scheme which details the methodology for dealing with any revisions to any of the documents required under this part (3). Any revised documents will require to be submitted to and approved in writing by the Planning Authority prior to the revisions being implemented on site.

(3) The Development shall be implemented in accordance with the CEMP approved under part (1) unless otherwise approved in advance in writing by the Planning Authority.

R13: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the EIA Report and Additional Information Report accompanying the application, or as otherwise agreed, are fully implemented.

#### **Borrow Pits – Scheme of Works**

C14: (1) There shall be no Commencement of Development until a scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The scheme shall include the following:

- (a) a detailed working method statement based on site survey information and ground investigations;
- (b) details of the handling of any overburden (including peat, soil and rock);
- (c) drainage measures, including measures to protect and manage surrounding areas of peatland, water dependant sensitive habitats and ground water dependent terrestrial ecosystems from drying out;
- (d) a programme of implementation of the works described in the scheme; and
- (e) Outline details of the reinstatement, restoration and aftercare of the borrow pits to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles.

(2) The scheme approved under part (1) shall thereafter be implemented in full following Commencement of Development.

R14: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on amenity and the environment, and to secure the restoration of borrow pit(s) at the end of the construction period.

## **Borrow Pits - Blasting**

C15: (1) No blasting shall take place until a scheme specifying blast monitoring locations is submitted to and approved in writing by the Planning Authority.

(2) Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at the blasting monitoring locations approved in the scheme. The measurement is to be the maximum of three mutually perpendicular directions taken at the ground surface.

(3) Unless otherwise approved in writing in advance by the Planning Authority, blasting shall only take place between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday .

(4) The scheme shall be implemented as approved.

R15: To ensure that blasting activity is carried out within defined parameters and timescales to control impact on amenity.

## **Construction Hours**

C16: (1) Construction work shall only take place between the hours of [07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00] on Saturdays, with no construction work taking place on a Sunday or Public Holiday. Outwith these specified hours, maintenance works, emergency works and construction works shall be limited to concrete pours, wind turbine erection, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authority.

(2) HGV movements (excluding abnormal loads) to or from the site during construction of the wind farm shall be limited to [07.00 to 19.00 Monday to Friday (inclusive), and 07.00 to 16.00 on Saturdays] , with no HGV movements to or from site taking place on a Sunday or Public Holiday. Outwith these hours, and subject to paragraph (1), HGV movements are to be limited to wind turbine delivery [(unless otherwise approved in advance in writing by the Planning Authority)] .

R16: In the interests of local amenity.

## **Habitat Management and Monitoring Plan**

C17: (1) There shall be no Commencement of Development until a Habitat Management Plan (HMP) taking account of the Outline Draft Habitat Management Principles (EIAR Technical Appendix 10.5) of the EIA Report, has been submitted to, and approved in writing by the Planning Authority.

(2) The HMP shall set out proposed habitat management of the site during the period of construction, operation, and decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of the site specific details, particular species (badger, otter, pine marten, red squirrel, water vole), habitats or wetland habitat on site.

(3) The HMP shall provide provision and details for regular monitoring and review to be undertaken against the HMP objectives and reasonable measures for securing amendments or additions to the HMP in the event that the HMP objectives are not being met.

(4) Until otherwise approved in advance in writing by the Planning Authority, the approved HMP (as amended from time to time with written approval of the Planning Authority) shall be implemented in full in line with the timescales set out in the approved plan.

R17: In the interests of good land management and the protection of habitats.

## **Pre-Construction Surveys**

C18: Pre-construction surveys shall be carried out no more than 3 months prior to the commencement of development for protected species that can be surveyed at any time of the year (e.g. otter and badger), or if there is a restricted window within which a survey can only be undertaken (e.g. breeding birds, bats and water vole), as close to the start of works as possible, and always within the most recent survey window.

The surveys shall inform a Species Protection and Enhancement Plan (SPP) which shall be submitted to and approved in writing by the Planning Authority, prior to the commencement of development. Thereafter, any required work identified in the approved SPP shall be carried out in strict accordance with the approved mitigation measures and timescales set out and agreed.

R18: In the interests of the protection of species.

C19: That all of the biodiversity enhancement mitigation measures outlined within the Outline Draft Habitat Management Principles, including enhancement of retained hedgerows and creation of wildflower meadow and ponds, shall be implemented and maintained to the satisfaction of the Planning Authority.

R19: In the interests of the protection and enhancement of habitats and species and in response to the specific requirements of Policy 3 of National Planning Framework 4 (NPF4).

### **Bird Protection Plan**

C20: (1) There shall be no Commencement of Development until a Construction Breeding Bird Protection Plan (CBBPP) has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. The CBBPP shall be informed by pre-commencement breeding bird surveys and set out measures to protect [black grouse, nightjar] including post construction ornithology surveys at intervals to be agreed with the Planning Authority.

(2) Thereafter, the approved Construction Breeding Bird Protection Plan shall be implemented in full within the timescales set out in the approved Bird Protection Plan

R20: In the interests of protecting ornithological interests through the construction, operational and decommissioning of the wind farm.

### **Enabling Works**

C21: That no development or works shall commence on the Site unless and until a programme of Site Enabling Works, detailing the extent, area and timings of such works (the 'Site Enabling Works Programme') has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The Site Enabling Works Programme must as a minimum provide for the following:

- (a) A plan showing the extent and layout of the enabling works;
- (b) The employment of a suitably qualified and experienced Ecological Clerk of Works, or equivalent, for the project, with specific responsibility for environmental management and the authority to take action when required, including stopping operations and implementing mitigation measures;
- (c) The employment of a Planning Monitoring Officer, to discharge and to monitor compliance with this condition, including provision of a quarterly compliance report to the Council;
- (d) A programme for environmental auditing and monitoring within the Site, before and during the Site Enabling Works, to provide the establishment of an environmental checklist, to monitor and input into the planning of construction activities and ensure implementation of all environmental mitigation measures;
- (e) A forest felling and management plan;
- (f) A site specific statement outlining drainage and sediment management for all exploration areas and measures to limit above ground construction activities during periods of high rainfall, including weather forecasting and actions to be taken in advance of adverse forecasts.
- (g) Working arrangements, including a programme for the phasing of operations, and particularly the movement of plant, materials and rock into, across and out of the site to minimise, so far as reasonably possible, impact on communities or businesses adjacent to or in close proximity to the Site.
- (h) Waste Management and Pollution Controls including contingency plans in case of pollution incidents;

- (i) A programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the Development, including a timetable for investigation, which must be submitted for the written approval of the Planning Authority. The approved programme must be implemented in accordance with the agreed timetable for investigation unless otherwise agreed in writing with the Planning Authority;
- (j) Measures to protect any scheduled monument(s) within the area of the enabling works;
- (k) Details for the delivery, storage, loading and unloading of plant and materials to be used in constructing the development, with particular regard for the deployment of HGVs and any abnormal loads;
- (l) Measures to control the emission of dust and dirt during construction;
- (m) Provision of welfare facilities on site during construction and the means of disposal of foul drainage;
- (n) Measures to protect all existing public water, private water and drainage arrangements, with suitable back up arrangements in case of any disruption to these provisions from Site Enabling Works;
- (o) An Access Management Plan to maintain public access and promote the general safety of walkers, cyclists, fishing and game stalking parties, canoeists and other marine users<sup>3</sup> out-with the principal construction areas and access roads serving the Development during the Site Exploratory Works. A key principal to be advanced within the Plan is to minimise restrictions on public access to important recreational facilities;
- (p) Wheel washing facilities to prevent vehicles associated with the Site Enabling Works from depositing mud or dirt on the public road network when leaving the Site.
- (q) Lighting for Site Enabling Works which will minimise illumination, glare or light spillage outwith the site boundary;
- (r) Details of watercourse crossings, to be agreed in consultation with SEPA.
- (s) Peat management, covering all aspects outlined in condition 24 in so far as it relates to enabling works, to be agreed in consultation with SEPA.

All Site Enabling Works must be carried out in accordance with the approved Site Enabling Works Programme unless otherwise agreed in writing with the Planning Authority.

R21: To ensure that all Site Exploratory Works are carried out in a manner that minimises their impact on amenity and the environment, and that the mitigation measures contained in the EIA Report accompanying the application are fully implemented.

### **Forestry Felling Plan**

- C22 (1) No felling shall take place until a Forestry Felling Plan (FFP) has been submitted to and approved in writing by the Planning Authority in consultation with Scottish Forestry. The FFP shall cover the Development site and shall provide:
- (a) details of felling and restocking proposals;
  - (b) details of the management measures to reduce the amount of felling required to accommodate the Development;
  - (c) measures to deal with forest waste including brash in line with the UK Forestry Standard and the joint guidance from SEPA, NatureScot and Scottish Forestry on Use of Trees Cleared to Facilitate Development on Afforested Land;
  - (d) timelines for implementing the plan;
  - (e) details setting out annual monitoring of the felled area and reporting procedures to be carried out by a qualified expert;
  - (f) details of forestry management practices; and

- (g) details demonstrating compliance with The UK Forestry Standard and the Scottish Government's Policy on Control of Woodland Removal (as amended or replaced from time to time) and [insert any local woodland strategy.

(2) The approved FFP shall be implemented in full upon Commencement of Felling.

R22: to minimise and manage the effects of forestry felling required to accommodate the Development.

### **Landscape Management**

C23: Prior to the commencement of development on site, a detailed landscape management plan and aftercare regime for the proposed areas of woodland mix, amenity and wildlife grassland and additional hedge/tree planting, as well as the maintenance and enhancement of the existing hedgerow shall be submitted to and approved in writing by the Planning Authority. This should include details of how habitats will be established and maintained. Thereafter, the management and aftercare of the planting shall be carried out in accordance with the approved details and be maintained on site for the lifetime of the development, unless otherwise agreed in writing by the Planning Authority.

R23: In the interests of visual amenity and to ensure a satisfactory standard of local environmental quality.

### **Peat and Carbon Rich Soils Management Plan**

C24: (1) There shall be no Commencement of Development until a detailed Updated Peat and Carbon Rich Soils Management Plan (PMP), taking account of the Peat Management Plan (Technical Appendix 11.2] and Peat Management Plan Addendum (Appendix AI 11.2 of the EIA Report) has been submitted to and approved in writing by the Planning Authority in consultation with SEPA.

(2) The PMP shall:

- (a) take account of site and ground investigations to minimise the loss of peat and other carbon rich soil and minimise carbon loss;
- (b) include actions, including micro-siting, to minimise excavated peat and other carbon rich soils volumes;
- (c) encourage use of excavated peat and other carbon rich soils in an appropriate manner; and (d) follow good practice for handling, storing and reinstating peat and other carbon rich soils.

(3) The Peat and Carbon Rich Soils Management Plan shall thereafter be implemented as approved upon the Commencement of Development.

R24: To ensure that disruption to peat is minimised.

### **Private Water Supply**

C25: (1) There shall be no Commencement of Development until a private water supplies method statement has been submitted to and approved in writing by the Planning Authority, detailing all contingent mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to any properties which are served by private water supplies at the date of this planning permission which may be affected by the Development.

(2) The method statement shall set out:

- a) details of the methodology for water quality and quantity sampling for a period of 12 months prior to construction (including abstraction points);
- b) details of the methodology and programme for undertaking water quality and quantity sampling during the construction period (including abstraction points); and
- c) details of the methodology for water quality and quantity sampling for a period of 12 months post construction (including abstraction points);

(3) The approved method statement shall thereafter be implemented in full upon the Commencement of Development.

R25: To maintain a secure and adequate quality and quantity of water supply to all properties with private water supplies for human consumption that may be affected by the Development.

## Archaeology

C26: (1) There shall be no Commencement of Development unless an archaeological Written Scheme of Investigation (WSI) has been submitted to, and approved in writing by, the Planning Authority. The WSI shall provide details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the Written Scheme of Investigation will be provided throughout the implementation of the programme of archaeological works. The WSI shall also detail how any requirement for reporting, post-excavation analysis, archive deposition, publication of results, and the delivery of public benefit (including how this will be recorded and reported) will be undertaken.

(2) A programme of archaeological works must be carried out in accordance with the approved WSI, and any addendums to it, as agreed under part (1).

(3) Should the archaeological works carried out under part (2) reveal the need for post excavation analysis, the development hereby approved shall not be occupied or brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results, including additional public engagement, and archive deposition has been submitted to and approved in writing by the Planning Authority. The PERD shall be carried out in complete accordance with the approved details.

R26: To ensure the protection or recording of archaeological features on the site.

## Access Management Plan

C27: (1) There shall be no Commencement of Development until an Access Management Plan ("AMP") has been submitted to and approved in writing by the Planning Authority. The AMP should ensure that public access is retained within and across the Development site during construction, where appropriate, and thereafter that suitable public access is provided during the operational phase of the wind farm.

(2) The approved plan shall be implemented in full upon Commencement of Development.

R27: In the interests of securing public access rights

## Aviation and Other Lighting

C28: (1) No wind turbines shall be erected until a scheme for aviation lighting (Aviation Lighting Scheme) for the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with the Civil Aviation Authority. The scheme shall provide details of aviation lighting which is to be applied.

(2) No later than the third and fifth anniversary of the date of First Commissioning and every five-year anniversary thereafter, the Company shall submit a written review of the Aviation Lighting Scheme to the Planning Authority. Each review shall provide:

- a. An assessment of options available for the reduction in the number of visible lights installed on turbines, the time period when lights are visible, and/or the intensity of the visible lighting;
- b. An assessment of the potential for installation of an Aircraft Detection Lighting System ("ADLS"), including a statement setting out the current and anticipated regulatory environment in relation to ADLS; and
- c. An assessment of whether it is technically feasible, through the regulatory framework to install an ADLS at the Development (taking into account installation and operational costs)

(3) The review may propose amendment of the Aviation Lighting Scheme. Specifically regarding ADLS, if a review assesses that it is technically feasible to install ADLS, provided that such installation shall not require planning permission, such review shall also provide the Company's proposals for installation of ADLS together with a proposed timetable for installation. Any proposed amendment shall be compliant with the then current aviation lighting requirements of the Civil Aviation Authority and the Ministry of Defence.

(4) Any proposed amendment to the Aviation Lighting Scheme under part (3) must be submitted to, and have received the written approval of, the Planning Authority in consultation with the Civil Aviation Authority and the Ministry of Defence and shall thereafter be installed in accordance with the approved details.

(5) The Aviation Lighting Scheme, or such alternative scheme as may be approved under part (4), shall thereafter be maintained throughout the operational life of the Development.

(6) The Development shall be operated in accordance with the approved scheme, or any alternative scheme as may be approved under part (4), unless otherwise approved in advance in writing by the Planning Authority in consultation with the Civil Aviation Authority and Ministry of Defence as a result of a periodic review.

R28: In the interests of aviation safety and to minimise visual effects of the Development.

### **Aviation Lighting**

C29: Prior to commencing construction of any wind turbine generators, or deploying any construction equipment or temporal structure(s) 15.2 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the written approval of the Planning Authority, in consultation with the Scottish Government, the Civil Aviation Authority and the Ministry of Defence. The aviation lighting scheme shall define how the development will be lit throughout its life to maintain civil and military aviation safety requirements as required under the Air Navigation Order 2016 determined necessary for aviation safety by the Civil Aviation Authority. This should set out:

- a) details of any construction equipment and temporal structures with a total height of 15.2 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme.

The lighting installed will remain operational for the lifetime of the development.

R29: To maintain aviation safety.

### **Aviation Charting and Safety Management**

C30: The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:

- a) the date of the commencement of the erection of wind turbine generators;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any wind turbine generators are brought into use;
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

R30: To maintain aviation safety.

### **Traffic & Transport – Transport Scotland**

C31: Prior to commencement of deliveries to site, the proposed route for any abnormal loads on the trunk road network must be submitted to and approved by the Planning Authority, in consultation with Transport Scotland as the trunk roads authority.

R31: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.

C32: Prior to the movement of any abnormal load any accommodation measures required, including the removal of street furniture, junction widening and traffic management must be approved and implemented to the satisfaction of the Planning Authority, in consultation with Transport Scotland as the trunk roads authority.

- R32: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.
- C33: Prior to the movement of any wind turbine components and/or construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being transported must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland as trunk road authority.
- R33: To ensure that the transportation of any components/materials will not have any detrimental effect on the road and structures along the route.

## **Traffic & Transport - ARA**

### New Access Road

- C34: That no development shall take place until such time that planning permission for the construction of the proposed new access road for Abnormal Indivisible Loads (AILs) from the A714 to C72, Gowlands Terrace has been approved by the Planning Authority.
- R34: To ensure that a satisfactory means of vehicular access for AILs is provided to the site in the interests of road safety and to prevent premature development.

### Access onto Public Road – site access:

- C35: All vehicular site access points onto the A714 shall be constructed in accordance with the specifications in the SCOTS National Roads Development Guide. This shall require full compliance with geometric design, visibility splays, and construction make-up. Each point of access shall be constructed, as approved by condition and in conjunction with the necessary Road Opening permits, prior to the commencement of construction works within the site.
- R35: In the interest of road safety and to ensure an acceptable standard of construction.

### Gates Set Back/ Open Inwards (Commercial/ Industrial):

- C36: Prior to occupation of the development any gates shall be set back a minimum of 10.0 metres from the rear of the public footway/ roadway, and open inwards away from the public roadway.
- R36: In the interest of road safety.

### Distance of Turbine from Public Road:

- C37: All turbines shall be positioned at a distance from the public road at least equal to 125% of the overall turbine to blade tip height.
- R37: In the interest of road safety.

### Land Acquisition:

- C38: The applicant/ developer shall be responsible for the acquisition and maintenance of all land required adjacent to the public road to allow the passage of Abnormal Indivisible Loads (AILs) whose swept path cannot be contained within the existing road widths. Any road widening provided adjacent to the public road shall be built to the specification provided by the Council as Roads Authority and shall be left in place when the work is complete.
- R38: In the interest of road safety.

### Structural Assessments:

C39: Prior to movement of any Abnormal Indivisible Loads (AILs) associated with the construction phase of the development, the applicant/ developer shall submit for the approval of the Planning Authority in consultation with the Ayrshire Roads Alliance structural assessments on the following structure:

- A714/100 Pinwherry Bridge, Main Street, Pinwherry, O.S. Grid Ref 219779E 586872N

No construction traffic or Abnormal Indivisible Loads (AILs) shall access the site via the above structure until such times that the structural assessments have been approved in writing by the Ayrshire Roads Alliance. The applicant shall be liable for the costs of these works.

R39: In the interest of road safety

### Structural Inspections

C40: The applicant/ developer shall, in consultation with the Council as Roads Authority, carry out any before and after inspection surveys deemed necessary for any structures which are the responsibility of South Ayrshire Council. The before and after surveys shall form the basis for establishing any reinstatement costs for damage due to abnormal traffic conditions and /or loading associated with the development of the site. The applicant shall be liable for the costs of these works.

R40: In the interest of road safety

### Construction Traffic Management Plan

C41: There shall be no Commencement of Development until a works specific Construction Traffic Management Plan ("CTMP") has been submitted to and approved in writing by the Planning Authority in consultation with the Ayrshire Roads Alliance and Transport Scotland. The approved CTMP shall provide (but not be limited to) the provision of the following:

- a) the routing of all traffic associated with the Development on public roads;
- b) measures to ensure that the specified routes are adhered to, including monitoring procedures;
- c) proposed traffic management and mitigation measures along the approved access route, as required;
- d) proposed mitigation measures at the main site access, anticipated to consist of measures to maximise achievable visibility splays, and the addition of TSRGD compliant warning signage;
- e) A full breakdown of all vehicle numbers anticipated to be generated by the development over the construction period, broken down by vehicle classification. The detail provided shall require to be sufficient to highlight periods of peak development traffic generation, and provide both estimated daily and weekly trip number estimates;
- f) traffic movement supporting information including borrow pit site investigation reports, where appropriate;
- g) during the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the Council as Roads Authority and Transport Scotland. All measures shall require to be fully installed before AIL movements commence;
- h) details of measures to minimise traffic impacts to existing road users where practicable, including consideration of avoiding busy road periods, and requirements for all drivers to always drive in a safe and defensible manner;
- i) details of measures/ contractual agreements to be put in place to manage the compliance of contractors and sub-contractors with using agreed/approved construction traffic routes. This shall include any associated monitoring procedures, and any specific training and disciplinary measures to be established to ensure the highest standards are maintained;
- j) details of all arrangements for emergency vehicle access;

- k) details of measures to prevent loose and deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent public road network;
- l) identification of a nominated person to whom any road safety issues can be referred.
- m) measures to accommodate pedestrians and cyclists where appropriate, and details of a nominated road safety person;
- n) details of wheel wash facilities to be established at the site entrance or an alternative suitable location to ensure no tracking of mud onto the public highway;
- o) details of the provision of construction updates to be distributed to elected ward members, the community council, and residents within an agreed distance of the site.

Thereafter, the development shall be carried out in full accordance with the approved CTMP, unless approved otherwise in writing with the Planning Authority, in consultation with the Ayrshire Roads Alliance.

R41: In the interests of road safety and to ensure that abnormal loads and egress the site in a safe manner.

#### Abnormal Loads

C42: (1) There shall be no abnormal load turbine component deliveries to the site until an Abnormal Load Route Assessment Report has been submitted to and approved in writing by the Planning Authority in consultation with the Ayrshire Roads Alliance and Transport Scotland. The Abnormal Load Route Assessment Report shall provide:

- a) Details of a communications strategy to inform the relevant communities of the programme of abnormal load deliveries;
- b) Details of any accommodation measures required for the local road network including the removal of street furniture, junction widening and traffic management measures;
- c) Details of the route for abnormal load turbine components on the local and trunk road networks and any recommendations for these deliveries;
- d) An assessment of the capacity of any structures adopted by the Ayrshire Roads Alliance on behalf of Council on the route to cater for abnormal indivisible loads, including turbine components, and details of proposed upgrades and mitigation measures required for any bridge crossings;
- e) Details of inspections of any identified structures adopted by the Ayrshire Roads Alliance on behalf of Council; and
- f) A plan for access by vehicles carrying abnormal load turbine components, including but not limited to the number and timing of deliveries and the length, width and axle configuration of all such traffic associated with the Development.

(2) Prior to the first delivery of an abnormal load, a programme for abnormal load turbine component deliveries shall be submitted to and be approved in writing by the Planning Authority in consultation with Transport Scotland and the Ayrshire Roads Alliance.

(3) Prior to any movement of abnormal load turbine components, the Applicant must complete any mitigation works set out in the scheme approved under part (1) of this condition and maintain such measures during the period of turbine component deliveries.

(4) The details in the approved report shall thereafter be implemented in full prior to the first delivery of an abnormal load turbine component.

R42: In the interest of road safety and to ensure that abnormal loads access and egress the site in a safe manner.

## Road Modifications

- C43: No development shall commence until the detailed design and specification for the proposed access junction and road upgrades have been submitted to and approved by the planning authority in consultation with the Ayrshire Roads Alliance. Thereafter the road modifications shall be constructed in accordance with the approved plans prior to construction of any part of the Development.
- R43: To ensure that road alterations comply with the relevant standards and that the safety of the traffic on the public road is not diminished.

## Public Road Wear & Tear and Protection of Road Infrastructure

- C44: (1) No development shall commence until a procedure for the regular monitoring of road conditions and the implementation of any remedial works required as may be reasonably attributable to the Development's construction plant and vehicle movements during the construction period, has been agreed by the Planning Authority in consultation with the Ayrshire Roads Alliance. The agreement should be made under Section 96 of the Roads (Scotland) Act 1984 (As Amended) and must include the following:
- An agreed study area that the Wear & Tear Agreement will cover;
  - The specifications for the preparation of the pre-commencement, interim and post construction road condition surveys of roads affected by the construction and delivery traffic;
  - An agreed interval for interim road condition surveys of roads affected by the construction and delivery traffic;
  - Details of an approved contractor who can undertake ongoing repairs to the roads that are caused by construction development traffic;
  - An agreed minimum response period for road repairs to be undertaken by the Applicant, following the identification of defects that have been caused by construction development traffic operating to and from the Development;
  - Details of a bond or other suitable security to underwrite the Section 96 agreement; and
  - A process to resolve disagreements in damage claims via an independent adjudicator.
- (2) The agreement shall be in place prior to construction works commencing or deliveries to the site.
- (3) The post construction survey shall be issued to the Planning Authority and Ayrshire Roads Alliance within three weeks of construction works ceasing at the development site.
- R44: To ensure that road alterations comply with the relevant standards and that the safety of the traffic on the public road is not diminished.

## Operational Noise

C45: The turbine shall be designed to permit individually controlled operation, or cut-out, at specified wind speeds in order to enable, and ensure, compliance with the noise level criteria stated in these conditions.

- a. Details from the turbine supplier and/or manufacturer regarding the tonality assessment carried out on the turbine require to be provided. A copy of the standard detailing the assessment method shall be submitted for approval by the Planning Authority. Where the tone level above audibility is 2dB or greater then a tonal penalty shall be applied to the permitted noise levels in accordance with figure 16 in the document "The Assessment and Rating of Noise from Wind Farms" (ETSU-R-97).
- b. The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty and amplitude modulation (AM) penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from Tables 1 and 2 at any dwelling which is lawfully existing or has planning permission at the date of this permission.
- c. The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(b). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(b) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.
- d. No electricity shall be exported until the wind farm operator has submitted to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.
- e. Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant and provide a written protocol to be approved by the Planning Authority. The protocol shall describe the procedure to assess the level and character of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out as far as possible the time or meteorological conditions to which the complaint relates and time or conditions relating to tonal noise or AM if applicable. Measurements to assess compliance with the noise limits shall be undertaken in accordance with the assessment protocol which shall be approved in writing by the Planning Authority.
- f. Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.
- g. The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the protocol within 2 months of the date of the approval of the protocol by the Local Authority unless otherwise agreed by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in a format to be agreed with the Planning Authority. Certificates of calibration of the equipment shall be submitted to the Planning Authority with the report.
- h. Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 5(b) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's initial assessment unless otherwise agreed by the Planning Authority.

Table 1 - Between 07:00 and 23:00 – Noise limits expressed in dB  $L_{A90,10\text{-minute}}$  as a function of the standardised wind speed (m/s) at ten metres height as determined within the site averaged over 10 minute periods

| Location            | Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods,<br>Sound Pressure Levels in dB, $L_{A90\ 10\text{min}}$ |      |      |      |      |      |      |      |      |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------|------|------|------|------|------|------|------|------|
|                     | 4                                                                                                                                     | 5    | 6    | 7    | 8    | 9    | 10   | 11   | 12   |
| Auchlewan           | 35.0                                                                                                                                  | 35.0 | 35.0 | 35.0 | 36.1 | 37.3 | 36.4 | 40.0 | 44.7 |
| Balligmorrie Farm   | 40.9                                                                                                                                  | 41.9 | 43.2 | 44.8 | 46.3 | 47.6 | 48.5 | 49.0 | 48.9 |
| Bellamore Farm      | 39.4                                                                                                                                  | 37.7 | 36.7 | 33.1 | 30.8 | 34.4 | 38.7 | 41.6 | 46.0 |
| Laggansarroch Farm  | 42.3                                                                                                                                  | 42.5 | 43.0 | 43.9 | 45.0 | 46.2 | 47.4 | 48.4 | 49.4 |
| Lambdoughty Cottage | 35.0                                                                                                                                  | 35.0 | 35.0 | 35.3 | 37.3 | 37.7 | 43.3 | 46.8 | 49.3 |
| Lilybank Cottage    | 35.0                                                                                                                                  | 35.0 | 35.0 | 35.0 | 36.1 | 37.7 | 37.0 | 40.4 | 44.9 |
| Mark Farm           | 35.0                                                                                                                                  | 35.0 | 36.5 | 33.1 | 30.3 | 34.1 | 38.6 | 40.1 | 41.8 |
| Milk House          | 35.0                                                                                                                                  | 35.0 | 35.0 | 35.0 | 36.1 | 37.4 | 36.7 | 40.1 | 44.7 |
| Pinclanty Cottage   | 35.0                                                                                                                                  | 35.0 | 35.0 | 35.0 | 36.1 | 37.7 | 38.0 | 41.0 | 45.2 |
| Pinmore Mains       | 40.9                                                                                                                                  | 41.8 | 43.1 | 44.8 | 46.3 | 47.6 | 48.5 | 49.0 | 48.9 |
| Traboyack Farm      | 35.0                                                                                                                                  | 35.0 | 35.0 | 35.3 | 37.2 | 37.3 | 43.2 | 46.7 | 49.3 |
| White Knowes        | 35.0                                                                                                                                  | 35.0 | 35.0 | 35.3 | 37.0 | 37.2 | 43.2 | 46.7 | 49.3 |

Table 2 - Between 23:00 and 07:00 – Noise limits expressed in dB  $L_{A90,10\text{-minute}}$  as a function of the standardised wind speed (m/s) at ten metres height as determined within the site averaged over 10 minute periods

| Location            | Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods,<br>Sound Pressure Levels in dB, $L_{A90\ 10\text{min}}$ |      |      |      |      |      |      |      |      |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------|------|------|------|------|------|------|------|------|
|                     | 4                                                                                                                                     | 5    | 6    | 7    | 8    | 9    | 10   | 11   | 12   |
| Auchlewan           | 42.7                                                                                                                                  | 42.6 | 42.6 | 42.5 | 42.1 | 41.8 | 41.6 | 41.2 | 40.7 |
| Balligmorrie Farm   | 42.8                                                                                                                                  | 42.7 | 42.6 | 42.6 | 42.4 | 43.1 | 46.3 | 49.7 | 49.6 |
| Bellamore Farm      | 42.7                                                                                                                                  | 42.0 | 41.6 | 40.8 | 38.7 | 38.7 | 38.7 | 38.5 | 41.0 |
| Laggansarroch Farm  | 42.9                                                                                                                                  | 42.8 | 42.8 | 42.7 | 42.7 | 43.5 | 45.2 | 46.8 | 46.8 |
| Lambdoughty Cottage | 42.7                                                                                                                                  | 42.5 | 42.5 | 42.3 | 41.9 | 41.5 | 41.0 | 47.6 | 47.1 |
| Lilybank Cottage    | 42.8                                                                                                                                  | 42.7 | 42.6 | 42.5 | 42.3 | 42.0 | 41.7 | 41.4 | 41.1 |
| Mark Farm           | 42.7                                                                                                                                  | 41.9 | 41.6 | 40.8 | 38.5 | 38.5 | 38.3 | 38.9 | 41.2 |
| Milk House          | 42.8                                                                                                                                  | 42.7 | 42.6 | 42.5 | 42.2 | 41.9 | 41.6 | 41.3 | 40.8 |
| Pinclanty Cottage   | 42.8                                                                                                                                  | 42.7 | 42.7 | 42.6 | 42.4 | 42.3 | 42.1 | 42.0 | 41.8 |
| Pinmore Mains       | 42.8                                                                                                                                  | 42.6 | 42.5 | 42.4 | 42.3 | 43.1 | 46.2 | 49.7 | 49.6 |
| Traboyack Farm      | 42.6                                                                                                                                  | 42.5 | 42.5 | 42.3 | 41.8 | 41.3 | 40.9 | 47.6 | 47.0 |
| White Knowes        | 42.6                                                                                                                                  | 42.5 | 42.5 | 42.3 | 41.7 | 41.3 | 40.9 | 47.6 | 47.0 |

Note to Table 3: The geographical co-ordinates references are provided for the purpose of identifying the general location of dwellings to which the noise limits in Tables 1 and 2 apply.

Table 3 - Coordinate locations of the properties listed in Table 1 and Table 2.

| Property            | Grid Coordinates |        |
|---------------------|------------------|--------|
|                     | X                | Y      |
| Auchlewan           | 224936           | 592098 |
| Balligmorrie Farm   | 222134           | 590587 |
| Bellamore Farm      | 223272           | 586889 |
| Laggansarroch Farm  | 220143           | 588736 |
| Lambdoughty Cottage | 225406           | 591402 |
| Lilybank Cottage    | 224490           | 591754 |
| Mark Farm           | 224979           | 587879 |
| Milk House          | 224936           | 591977 |
| Pinclanty Cottage   | 223206           | 591221 |
| Pinmore Mains       | 221142           | 590116 |
| Traboyack Farm      | 225816           | 591893 |
| White Knowes        | 227305           | 592094 |

### Guidance Notes for Noise Conditions

These notes are to be read with and form part of the planning condition on noise. The measured data is to be split into bins as described below. The rating level in each bin is the arithmetic sum of the wind farm noise level, any tonal penalty applied in accordance with Note 3 and any AM penalty applied in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI). IOA GPG is "A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise" or any update of that report current at the time of measurement. The IOA Metric is "A Method for Rating Amplitude Modulation in Wind Turbine Noise" dated 9<sup>th</sup> August 2016 or any update of that current at the time of measurement.

### Note 1 – Data Collection

- Values of the LA90,10-minute noise index should be measured in accordance with the IOA GPG. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and to allow an AM penalty to be calculated for selected periods where a tonal or AM assessment is required.
- To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the Planning Authority. The wind speed at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which are correlated with the noise measurements determined as valid. The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle, arithmetic mean rotor RPM and whether each wind turbine is running normally during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Universal Time (UT).

## **Note 2 – Data Analysis**

- a. The independent consultant shall identify a sub-set of data having had regard to:-
  - the conditions (including time of day and corresponding wind directions and speeds) at times in which complaints were recorded;
  - the nature/description recorded in the complaints if available;
  - information contained in the written request from the local planning authority;
  - likely propagation effects (downwind conditions or otherwise);
  - the results of the tonality/AM analysis where relevant.

In cases where it is possible to identify patterns of clearly different conditions in which complaints have arisen additional sub-sets may be considered provided this does not introduce unreasonable complexity in the analysis and can be justified by the independent consultant.

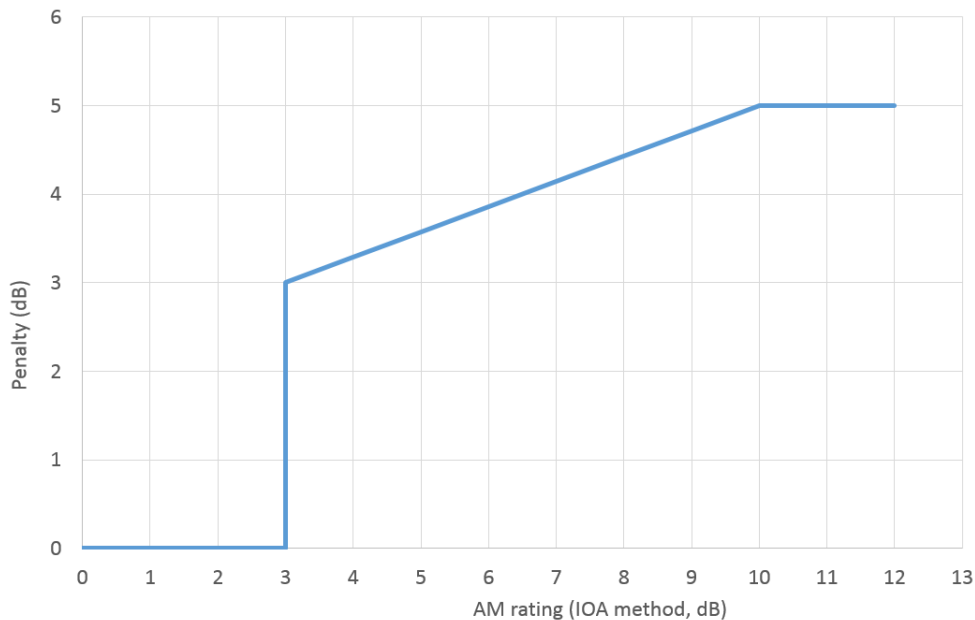
- b. Within each of the sub-set(s) of data identified, data shall be placed into separate 1 m/s wide wind speed bins.

## **Note 3 – Tonal Penalty**

- a. Where, in accordance with the protocol, the noise contains or is likely to contain a tonal component, a tonal audibility shall be calculated for each ten-minute period using the following procedure.
- b. For each 10-minute period for which a tonal assessment is required this shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure").
- c. For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted. Where data for a ten-minute period are corrupted, that period shall be removed from the tonal analysis.
- d. The tone level above audibility for each ten-minute period shall be placed in the appropriate data sub-set and wind speed bin.

#### Note 4 – AM Penalty

- a. Where, in accordance with the protocol, the noise contains or is likely to contain AM, an AM penalty shall be calculated for each ten-minute period using the following procedure.
- b. For each 10-minute interval for which an AM assessment is required this shall be performed in accordance with The IOA Metric. The value of AM for each ten-minute period shall be converted to a penalty in decibels in accordance with the graph below and the penalty shall be placed in the appropriate data sub-set and wind speed bin. Where a penalty is zero it should be placed in the bin in the same way.



#### Note 5 – Calculation of Rating Level

- a. The LA90 sound pressure level for each data sub-set and wind speed bin is the arithmetic mean of all the 10 minute sound pressure levels within that data sub-set and wind speed bin except where data has been excluded for reasons which should be clearly identified by the independent consultant. The tonal penalty for each bin is the arithmetic mean of the separate 10-minute tonal audibility levels in the bin converted to a penalty in accordance with Fig 17 on page 104 of ETSU-R-97. The AM penalty for each bin is the arithmetic mean of the AM penalties in the bin. The assessment level in each bin is normally the arithmetic sum of the bin LA90, the bin tonal penalty and the bin AM penalty except where the AM penalty and the tonal penalty relate to the same characteristic (e.g. amplitude modulated tones) when the sum of both penalties may overly penalise the characteristics of the noise. Such cases should be identified and only the larger of the AM or tonal penalty should be applied.
- b. If the assessment level in every bin lies at or below the values set out in the Table(s) attached to the conditions then no further action is necessary. In the event that the assessment level is above the limit(s) set out in the Tables attached to the noise conditions in any bin, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only. Correction for background noise need only be undertaken for those wind speed bins where the assessment level is above the limit.

c. The wind farm operator shall ensure that all the wind turbines in the development are turned off for such periods as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

- i. Repeating the steps in Note 1, with the wind farm switched off, and determining the background noise ( $L_3$ ) in each bin as required in the protocol. At the discretion of the consultant and provided there is no reason to believe background noise would vary with wind direction, background noise in bins where there is insufficient data can be assumed to be the same as that in other bins at the same wind speed.
- ii. The wind farm noise ( $L_1$ ) in each bin shall then be calculated as follows where  $L_2$  is the measured level with turbines running but without the addition of any tonal nor AM penalty:

$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$

- iii. The rating level shall be calculated by adding the tonal and AM penalties to the derived wind farm noise  $L_1$  in that bin.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal and AM penalties in every bin lies at or below the values set out in the Tables attached to the condition at all wind speeds then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table(s) attached to the condition then the development fails to comply with the planning condition in the circumstances represented by that bin.

R45: To protect nearby residents from undue noise and disturbance and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

#### **Shadow Flicker**

C46: (1) No turbine shall be erected until a scheme for the avoidance or mitigation of shadow flicker at residential properties which lawfully exist or for which planning permission has been granted as at the date of this Section 36 consent, has been submitted to, and approved in writing by, the Planning Authority.

(2) The approved mitigation scheme shall be implemented in full in line with the approved scheme.

R46: To offset any impacts of shadow flicker on residential property amenity.

#### **Emergency Action Plan**

C47: Prior to the commencement of development on site, a full Emergency Action Plan shall be submitted to and approved in writing by the Planning Authority. This shall include a Fire Safety Management Plan which outlines the measures in place to limit the fire risk, and a response and management plan in the event of a fire. Thereafter, the development shall be constructed, implemented and operated in strict accordance with the measures contained within the approved Emergency Action Plan, and these shall be maintained for the lifetime of the development, unless otherwise agreed in writing by the Planning Service.

R47: In the interest of health and safety.

#### **Turbine Operation**

C48: (1) The wind turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

R48: In the interests of the visual amenity of the area.

## Redundant Turbines

- C49: (1) If one or more wind turbines fails to generate electricity on a commercial basis to the public network for a continuous period of 12 months, then unless otherwise approved in writing by the Planning Authority in consultation with SEPA, the Company shall:
- (a) Within one month of the expiration of the 12 month period, submit a scheme to the Planning Authority for written approval setting out how the relevant wind turbine(s) and associated infrastructure will either be repaired or removed from the site and the ground restored to a condition agreed with the Planning Authority in consultation with SEPA; and
  - (b) Implement the approved scheme within 12 months of the date of approval of the scheme, all to the satisfaction of the Planning Authority.
- R49: To ensure that any redundant wind turbine is removed from site, in the interests of safety, amenity and environmental protection.

## Decommissioning, Restoration & Aftercare

- C50: The Development will be decommissioned and will cease to generate electricity by no later than the date falling 35 years from the date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed three years from the date of Final Decommissioning without prior written approval of the Planning Authority.

Prior to the commencement of development, a Decommissioning, Restoration and Aftercare Strategy shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot, SEPA and Transport Scotland. The strategy shall comprise of measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, a Decommissioning, Restoration and Aftercare Plan with proposals for the removal of the above ground elements of the development, confirmation of the status of subterranean elements of the development (retention, removal, or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

No later than 3 years prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier) a detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted to the Planning Authority for written approval in consultation with NatureScot, SEPA and Transport Scotland.

The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- (a) A Site Waste Management Plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- (b) Details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- (c) A Dust and Air Pollution Management Plan;
- (d) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the Site entrances and the adjacent local road network;
- (e) A Pollution Prevention Plan, including arrangements for the storage and management of oil and fuel on the Site;
- (f) Soil storage and management;
- (g) A Ground and Surface Water Management Plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) Sewage disposal and treatment;

- (i) Temporary Site illumination;
- (j) The construction of any temporary access into the Site and the creation and maintenance of associated visibility splays; and,
- (k) Details of watercourse crossings.
- (l) a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the Decommissioning, Restoration and Aftercare Plan)

The Development shall be decommissioned, Site restored, and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with NatureScot and SEPA.

- R50: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.
- C51: The development shall be decommissioned, the site restored, and aftercare thereafter undertaken in accordance with the decommissioning, restoration and aftercare strategy and associated plan approved under Condition 49, within one year of the expiry of the consent or within one year of permanent cessation of the use of the development site for the purpose of operating the approved wind farm whichever is the sooner, unless otherwise agreed in writing in advance with the Planning Authority.
- R51: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

#### **Financial Guarantee**

- C52: That no less than 1 month prior to the commencement of development, the Company shall deliver a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in conditions 49 and 50 has been submitted to and approved in writing by the Planning Authority.

The value of the financial guarantee shall be agreed between the applicant and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in conditions 49 and 50.

The financial guarantee shall be maintained in favour of the Planning Authority until the completion of all decommissioning, restoration and aftercare obligations referred to in conditions 49 and 50.

The value of the financial guarantee shall be reviewed by agreement between the applicant and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional not less than every five years, and at the time of the approval of the detailed decommissioning, restoration and aftercare plan approved under condition 49. The value of the financial guarantee shall be increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations referred to in conditions 49 and 50 and best practice prevailing at the time of each review.

The Company shall:

- (a) ensure that the guarantee, bond or other financial provision is maintained throughout the duration of this permission; and,
- (b) pay for the guarantee, bond or other financial provision to be subject to a review five years after the Commencement of Development and every five years thereafter until such time as the Development is decommissioned and the Site restored.

- R58: To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the applicant.

## **Signage & Advertising**

C53: No turbine infrastructure and apparatus, substation infrastructure or buildings, ESS or any other infrastructure constructed on site shall display any illuminated text, sign, logo, or advertisement, other than those required by law under other legislation.

R53: In the interest of visual amenity.

## **Informative Notes for Developer**

### Road Opening Permit

That a Road Opening Permit is required in addition to planning consent for any work to be undertaken within the public road limits. An application for a Road Opening Permit should be made separately to the Ayrshire Roads Alliance, prior to works commencing on site.

### Roads (Scotland) Act

The Council as Roads Authority advises that all works on the carriageway to be carried out in accordance with the requirements of the Transport (Scotland) Act 2005 and the Roads (Scotland) Act 1984.

### New Roads and Street Works Act 1991

To comply with the requirements of the New Roads and Street Works Act 1991, all works carried out in association with the development on the public road network, including those involving the connection of any utility to the site, must be co-ordinated so as to minimise their disruptive impact. This co-ordination shall be undertaken by the developer and his contractors in liaison with the local roads authority and the relevant utility companies.

### Costs of Street Furniture

The Council as Roads Authority advises that any costs associated with the relocation of any street furniture shall require to be borne by the applicant / developer.

### Costs of TROs

The Council as Roads Authority advises that promotion of Traffic Regulation Orders resulting from this development shall require to be fully funded by the applicant – including any relevant road signs and markings.

### Signage to TSRGD 2016

The Council as Roads Authority advises that only signs complying with the requirements of 'The Traffic Signs Regulations and General Directions 2016' are permitted within public road limits.

### RSA

The Council as Roads Authority advises that prior to the commencement of works to construct any new or amended roads infrastructure; a Stage 1+2 Combined Road Safety Audit in compliance with GG 119 of the Standard for Highways Design Manual for Roads and Bridges shall be submitted for the approval of the Planning Authority in consultation with the Ayrshire Roads Alliance. This applies to all proposed new roads and any alterations to existing roads carried out under RCC or a Section 56 Agreement with the Council as Roads Authority & the applicant. The requirement to complete a Road Safety Audit includes for addressing the recommendations contained within the audit report.

### RSA

The Council as Roads Authority advises that prior to the commencement of works to construct any new or amended roads infrastructure; a Stage 3 Road Safety Audit in compliance with GG 119 of the Standard for Highways Design Manual for Roads and Bridges shall be submitted for the approval of the Planning Authority in consultation with the Ayrshire Roads Alliance. This applies to all proposed new roads and any alterations to existing roads carried out under RCC or a Section 56 Agreement with the Council as Roads Authority & the applicant. The requirement to complete a Road Safety Audit includes for addressing the recommendations contained within the audit report.

### Abnormal Loads (S96 Agreement)

The Council, as Roads Authority, reserves the right to reclaim any extraordinary maintenance costs which may be incurred because of this development under Section 96 of the Roads (Scotland) Act 1984. As such, the developer shall be required to enter into a formal agreement with the Council indicating their acceptance of such liability under a Section 96 Agreement.

### Tonnage Contribution (S69 Agreement)

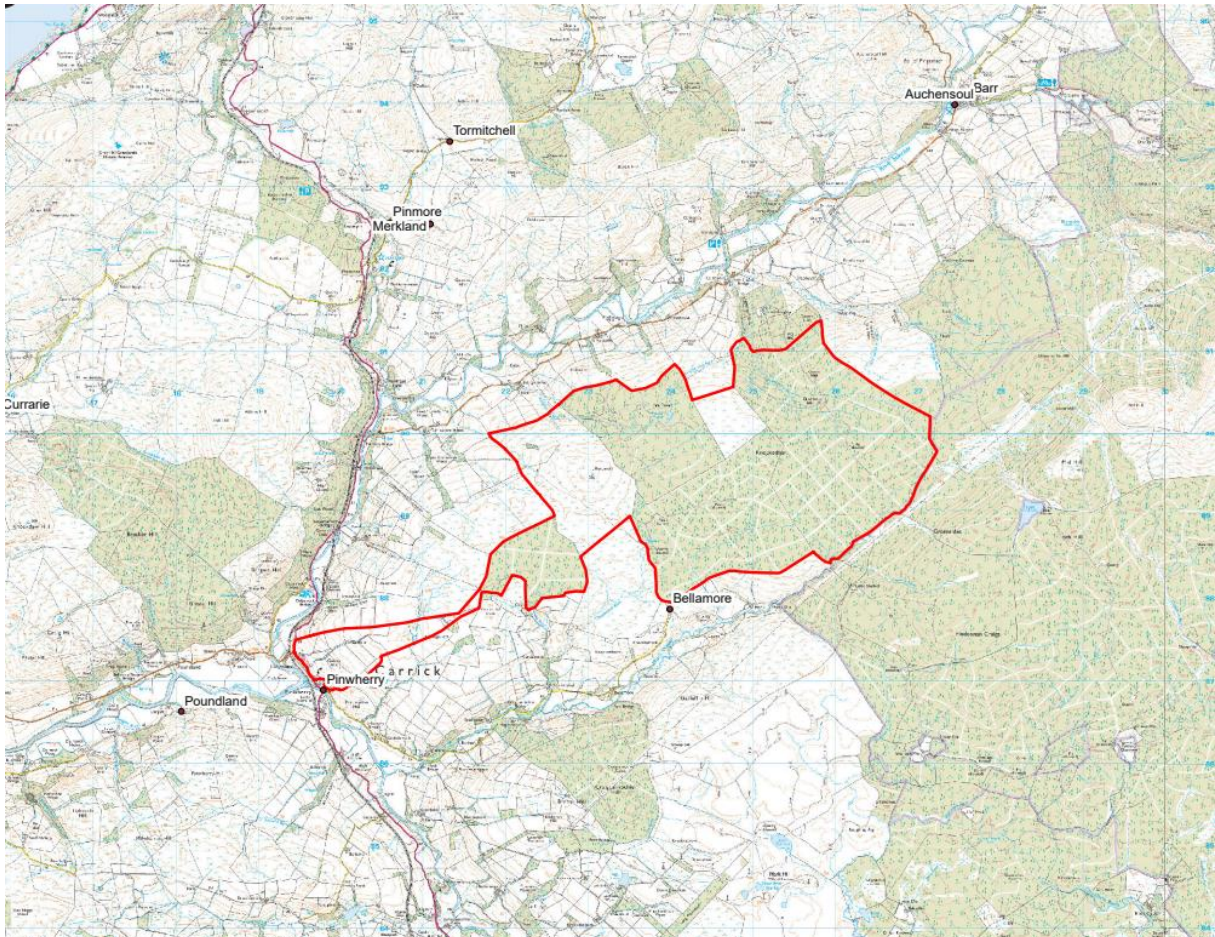
The Council, as Roads Authority, reserves the right to seek a contribution based on the tonnage of construction material imported using local public roads within South Ayrshire Council under Section 69 of the Local Government (Scotland) Act 1973. As such, the developer shall be required to enter into a formal agreement with the Council indicating their acceptance of such a contribution under a Section 69 Agreement.

**REGULATORY PANEL: 15 MAY 2025**

**REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT**

**KNOCKODHAR WINDFARM NEAR PINMORE AND BARR VILLAGES**

## **LOCATION PLAN**



### **Summary**

The proposal comprises the construction and operation of 16 wind turbines, an energy storage system, substation and compound, access, and associated infrastructure. Each turbine will be three bladed with a horizontal axis. Two turbines would be 149.9m to blade tip and each have an installed capacity of approximately 4.5MW. The remaining 14 turbines will be between 180m and 200m to blade tip height will each having an installed capacity of approximately 6MW. The overall anticipated generating capacity of the wind farm would be approximately 93MW.

The site extends to approximately 1,190 hectares (ha) and is located around 3.5 kilometres (km) south-west of the village of Barr and the settlement of Pinwherry adjoins the south-western boundary of the proposed development. The site currently consists largely of commercial plantation forestry to the east where the wind turbines and associated infrastructure are proposed. Towards the west, where the site joins the A714, the land use is open agricultural land.

There are other operational and proposed wind farms in the vicinity of the site. The closest operational wind farm is Mark Hill, approximately 2km to the south of the site, comprising 28 turbines 110m to tip.

The site is not subject to any national landscape designations. Parts of the Stinchar Valley Local Landscape Area (LLA) overlaps with the northern and south-western parts of the site, although no wind turbines are proposed in either of these areas.

The site does not form part of any statutory designated site for nature conservation with qualifying ecological interests. The nearest designation is the Lendalfoot Hills Complex Special Area of Conservation (SAC), and Aldons Hill Site of Special Scientific Interest (SSSI) located approximately 1.65km to the west of the site. The site is outwith the buffer zone for the Galloway Forest and Dark Sky Park and the UNESCO Galloway and Southern Ayrshire Biosphere.

There are no designated cultural heritage assets within the site boundary itself, but there are assets located within 2km of the site boundary, including a standing stone/cairn, three Category B Listed Buildings, and one Category C Listed Building.

The site is drained by a number of tributaries of the Muck Water to the south and the River Stinchar to the north. Flood risk mapping indicates there is little risk of fluvial flooding but there is a likelihood of some surface water flooding.

One third of the site contains peat depths of less than 0.5m, principally located in the far west, centre, north-east and the south. In between, the site contains five principal bogs where there are areas of deep peat of over 1m. In addition, there are numerous smaller deep peat bogs scattered throughout the site, some with peat depths greater than 3m.

The proposal is classified as a National Development in NPF4, thereby benefitting from 'in principle' policy support. This in principle support is further reiterated by NPF4 Policy 11 which supports renewable energy projects, subject to consideration of detailed matters.

Upon detailed assessment, the majority of the proposal accords with the strategic and overarching Development Plan policies of National Planning Framework 4 (NPF4) and The South Ayrshire LDP2 in that it would make a significant contribution to the generation of renewable energy, helping to tackle the climate crisis. Based on NPF4 Policy 1, this would add significant weight in support of the proposal. The proposal is considered to meet the objectives and overarching policies of tackling the climate and nature crises which are the primary policies of NPF4 and the sustainable development policies of LDP2.

Having regard to detailed and site-specific matters, any potential effects regarding landscape and visual, aviation, ecology, cultural heritage, hydrology, hydrogeology, and residential amenity impacts can be mitigated.

Notwithstanding the above, Ayrshire Roads Alliance (ARA) as the Local Roads Authority conclude that the proposal cannot be supported due to lack of information and is therefore contrary to transport policies of NPF4 and LDP2. There is currently insufficient supporting information (in particular, Abnormal Load movements) to allow the ARA to adequately assess the impacts and feasibility for the adopted local road network to safely accommodate development trips.

Further information was requested by the Planning Service on several occasions, giving the applicant the opportunity to address the concerns of the Ayrshire Roads Alliance. However, it was not received until 29<sup>th</sup> April 2025 leaving insufficient time for review and assessment before finalising this report. As the Council must respond to this consultation by 16 May 2025, with no scope for extension, the information has not been taken into account.

Overall, when assessed against the Development Plan, the proposal aligns with the intent of primary NPF4 policies and LDP2 which seek to address the climate emergency through promoting development that minimises emissions to achieve zero carbon, restore the natural environment and adapts to the current and future impacts of climate change. However, ARA have raised concerns that are deemed significant enough to merit an objection and which have not been addressed to date.

Having considered the application submission as a whole and notwithstanding the identified benefits of the scheme, together with the responses received and having balanced the developers' interest against the wider community interest, it is recommended that the Council confirms a position of objection to this proposed development be submitted to the Scottish Government at this time.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

**REGULATORY PANEL: 15 MAY 2025**

|                         |                                                                                                                          |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <b>SUBJECT:</b>         | <b>CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989</b>                                                         |
| <b>APPLICATION REF:</b> | <b>23/00472/DEEM</b>                                                                                                     |
| <b>SITE ADDRESS:</b>    | <b>KNOCKODHAR WIND FARM, PINMORE SOUTH AYRSHIRE</b>                                                                      |
| <b>DESCRIPTION:</b>     | <b>APPLICATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR PERMISSION TO ERECT AND OPERATE KNOCKODHAR WIND FARM</b> |
| <b>RECOMMENDATION:</b>  | <b>OBJECTION</b>                                                                                                         |

### **1. Purpose of Report:**

- 1.1 South Ayrshire Council has been consulted by The Scottish Government Energy Consents Unit (ECU), under Section 36 of The Electricity Act 1989, regarding an application by REG Knockodhar Limited for the erection and operation of a wind farm, and associated infrastructure at Knockodhar, near Pinmore, South Ayrshire.
- 1.2 The Council is not the determining authority for this proposal. This report sets out the proposed response to The Scottish Government's consultation which was issued on 13 June 2023. An extension of time to 16 May 2025 has been agreed for South Ayrshire Council to provide its consultation response.
- 1.3 Under the Council's Scheme of Delegation relative to planning, all Section 36 consultations from the Scottish Government Energy Consents Unit require to be referred to the Council's Regulatory Panel.
- 1.4 Under the Electricity Act 1989, Schedule 8, Part 2, Paragraph 2 (a), where the relevant Planning Authority notifies the Scottish Ministers that they object to the application and their objection is not withdrawn, the Scottish Ministers shall cause a public inquiry to be held.

### **2. Recommendation**

- 2.1. It is recommended that the Regulatory Panel:

Submits this report to The Scottish Government as an objection to the proposed wind farm.

### **3. Background and Procedural Matters**

#### **Consenting**

- 3.1 On **26 May 2023**, The Applicant submitted to The Scottish Government a Section 36 Application together with an application that planning permission be deemed to be granted in respect of the construction and operation of a wind farm exceeding 50 Megawatts of electricity comprising of 16 turbines with variable tip heights, with the maximum up to 200 metres high. The proposal also includes an energy storage system of up to 20MW, access and ancillary development at land to the south-west of Barr in South Ayrshire.
- 3.2 Under Section 36 of The Electricity Act 1989, the construction of a generating station with a capacity which exceeds 50 MW requires the consent of Scottish Ministers. The proposed windfarm and energy storage system will generate approximately 93MW per annum.
- 3.3 The Scottish Government formally consulted the Council on the proposed development on 13 June 2023 with the date for response being 13 October 2023. The Planning Service made an initial request for the time period for responding to be extended to the 2 February 2024 and this extension was agreed by the Applicant. Further requests were made due to the lack of information provided by the applicant on roads matters with the last and final request for an extension of time until 16 May 2025.

#### **Environmental Impact Assessment**

- 3.4 The proposed development constitutes a Schedule 2 development as classified by the Electricity Works (EIA) (Scotland) Regulations 2017 and the application is supported with an Environmental Impact Assessment Report (EIAR). An EIA Scoping request was submitted to the ECU in November 2020 and the Council contributed to the Scoping Response issued by the ECU on 10 February 2021.
- 3.5 Under the Electricity Works (Environment Impact Assessment) (Scotland) Regulations 2017, Scottish Ministers are required to consider whether any proposal for a generating station is likely to have a significant effect on the environment. These Regulations stipulate that Scottish Ministers must consult the local Planning Authority, NatureScot (formerly 'Scottish Natural Heritage), Scottish Environment Protection Agency and Historic Environment Scotland. The Regulatory Panel are asked to note that in the event that a Planning Authority objects to a Section 36 Application, and does not withdraw its objection, a public inquiry must be held, before the Scottish Ministers decide whether to grant consent (Refer Paragraph 2, Schedule 8 of the Electricity Act, 1989).
- 3.6 In reaching their decision, Scottish Ministers have to take into account the environmental information submitted with the application and supporting Environmental Impact Assessment, the representations made by statutory consultative bodies and others in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, Scottish Planning Policy on Renewable Energy (now superseded by NPF4), other relevant Policy, Planning Advice Notes, the relevant Planning Authority's Development Plans and any relevant supplementary guidance.
- 3.7 An EIA Scoping Request was submitted to the ECU October 2021, and a Scoping Opinion was issued in February 2021. South Ayrshire Council provided their response in January 2021.
- 3.8 The grid connection of the proposed wind farm with the local electricity distribution network requires consent for any overhead lines under Section 37 of The Electricity Act 1989. This would be subject to a separate application to the Energy Consents Unit and consultation with South Ayrshire Council.

## Section 37 EIA Screening Opinion

- 3.9 On 25 October 2021, the Scottish Ministers received an EIA Screening request under regulation 8(1) of the Electricity Works (Environmental Impact Assessment) for a proposed new 132 kV grid connection for the proposed Knockodhar Wind Farm. This comprised of 2.3km of 132kV overhead line and 578m of underground cable to connect the overhead lines to the nearby Mark Hill substation. Scottish Ministers determined on 12 April 2022 that the proposed overhead line development does not require an EIA Report under Section 37 of the Electricity Act 1989. This decision also took into account the EIA Screening Opinion response from South Ayrshire Council issued on 7<sup>th</sup> February 2022, which also concluded that the proposal is not likely to result in significant effects on the environment which require the submission of an EIA Report.

## **4. Development Proposal**

- 4.1 The proposed development comprises the construction and operation of 16 wind turbines, an energy storage system, substation and compound, access, and associated infrastructure. Each turbine will be a three bladed with a horizontal axis. Two turbines (T3 and T10) would be 149.9m to blade tip and each have an installed capacity of approximately 4.5MW. The remaining 14 turbines (between 180m and 200m to blade tip height) will each having an installed capacity of approximately 6MW. The overall anticipated generating capacity of the wind farm would be approximately 93MW.
- 4.2 Full details of the proposed development can be summarised as the following:
- 16 wind turbines of variable tip height with the maximum being up to 200 metres (m);
  - turbine foundations;
  - areas of hardstanding at each turbine for construction purposes;
  - an Energy Storage System (ESS) compound, up to 20 MW;
  - a 132 kilovolt (kV) substation and compound, including control building;
  - a network of buried cables;
  - two accesses from the A714, one for abnormal loads only;
  - a network of new (10.7km) and upgraded (up to 7.3km) access tracks throughout the site (totalling up to 18km),
  - watercourse crossings (six new and seven existing to be upgraded);
  - up to four temporary borrow pits, located within four identified borrow pit search areas.
- 4.3 The underground electrical, fibre optic and earth cables will connect the turbines to the onsite substation which in turn will be connected to the electricity network.
- 4.4 The proposed onsite substation and ESS compounds are located to the south of the site. The substation compound will house the outdoor electrical high voltage equipment, transformer and control buildings for the Network Owner and the proposed development and will occupy an area of approximately 70m x 58m surrounded by security fencing. Underground electrical, cabling will connect the wind turbines to the substation which in turn will be connected to the National Grid network at Mark Hill.
- 4.5 The ESS compound will be situated adjacent to the substation, have a footprint of approximately 80m x 58m and be surrounded by security fencing. Inside the ESS compound there will be around 20 containerised battery units, a small control building, transformers, inverters, cooling plant and ancillary equipment.
- 4.6 The applicant has set out that the expected operational life of the wind farm is 35 years. The applicant has also requested a micro-siting distance of 75m around the wind turbines.

## 5. Application Site

- 5.1 The proposed development site extends to approximately 1,190 hectares (ha) and is located around 3.5 kilometres (km) to the south-west of the village of Barr. The site currently consists largely of commercial plantation forestry to the east where the wind turbines and associated infrastructure are proposed. Towards the west, where the site joins the A714, the land use is open agricultural land. The site is within a sparsely populated area characterised by extensive forestry. The ground elevation rises from approximately 40m Above Ordnance Datum (AOD) in the west of the site to approximately 270m AOD in the east of the site. The proposed development is solely within the planning authority of South Ayrshire Council.
- 5.2 The nearest settlements to the site are Pinwherry, adjoining the south-western site boundary, and Barr, approximately 3.5km to the north-east. The nearest residential property to the site is Mark Farm, located approximately 500m beyond the site boundary to the south. A number of individual properties are located further west and north of the site, adjacent to the A714 and the B734, respectively. There are other operational and proposed wind farms in the vicinity of the site. The closest operational wind farm is Mark Hill, approximately 2km to the south of the site, comprising 28 turbines 110m to tip. Clauchrie Wind Farm was proposed to be located approximately 1.2km from the site, consisting of 18 turbines with a blade tip height of 200m, however this application was refused on 31 August 2023.
- 5.3 The site is not subject to any national landscape designations, and no part of the site is located within a Wild Land Area (WLA). The closest WLA to the proposed development is WLA 01. 'Merrick,' approximately 12km to the east.
- 5.4 The South Ayrshire Local Development Plan 2 (LDP2) (2022) designates a series of Local Landscape Areas. Parts of the Stinchar Valley LLA overlaps with the northern and south-western parts of the site, although no wind turbines are proposed in either of these areas. There are a number of landscape designations within the vicinity of the site boundary. These include locally valued landscapes that have been designated through the Local Development Plans of South Ayrshire, East Ayrshire, and Dumfries & Galloway.
- 5.5 The site does not form part of any statutory designated site for nature conservation with qualifying ecological interests. The nearest such designation is the Lendalfoot Hills Complex Special Area of Conservation (SAC) and Aldons Hill Site of Special Scientific Interest (SSSI) which are located approximately 1.65km to the west of the site. In terms of non-statutory local nature conservation designations, the Muck Water Provisional Local Wildlife Site (PLWS) intersects the southern site boundary while the River Stinchar (Minuntion to Pingerrach Burn) PLWS adjoins part of the northern site boundary.
- 5.6 There are no designated cultural heritage assets within the site boundary itself. There are 45 potential cultural heritage assets located within or directly adjacent to the site boundary, including the former site of a prehistoric standing stone/cairn.
- 5.7 There are three Category B Listed Buildings, one Category C Listed Building, five non-designated designed landscapes (sites of), and 114 non-designated heritage assets within 2km of the proposed wind turbine locations. Within 2-5km of the proposed wind turbine locations, there is one Category A Listed Building, two Scheduled Monuments, one Conservation Area and eight Category B Listed Buildings. Between 5- 20km of the proposed wind turbine locations, there are five Gardens and Designed Landscapes (GDLs), 33 Category A Listed Buildings, 20 Scheduled Monuments and two Conservation Areas.
- 5.8 The site is drained by a number of tributaries of larger watercourses, namely the Muck Water to the south and the River Stinchar to the north. SEPA's online flood risk mapping indicates that within the site boundary there is little risk of fluvial flooding but there is a high (10% chance of happening in any one year) to medium (0.5% chance of happening in any one year) likelihood of surface water (pluvial) flooding along the areas of some of the tributaries and lochans e.g. the Drumneillie and Docherneil Burns. There is also a high likelihood of surface water flooding within parts of the forested areas of the site, particularly along drainage routes.

- 5.9 Peat probing surveys were undertaken by the applicant in September 2020 and in June-July 2022. The interpolated peat depth map (EIA Report Appendix 11.2) indicates that approximately one third of the site contains peat depths <0.5m, principally located in the far west, centre, north-east and the south. In between these areas, the site contains five principal bogs where deep peats >1m were encountered. These areas are located in the south-west, centre, north and north-east of the site and at Glake Plantation along the new access track from the west. In addition, there are numerous smaller deep peat bogs scattered throughout the site, some with peat depths >3m.
- 5.10 The site is located outwith the buffer zone for the Galloway Forest and Dark Sky Park and the UNESCO Galloway and Southern Ayrshire Biosphere. The proposed development is however within the transition zone of these areas.

## 6. Consultations

- 6.1 Consultations on this application are primarily led and undertaken by The Scottish Government as the determining authority. The following consultation responses received by the Scottish Governments Energy Consents Unit (ECU) are for noting only.
- 6.2 Comments arising from consultation within South Ayrshire Council (department services) are also summarised below and where appropriate these are also incorporated into the Assessment section of this panel report. These responses which have informed the Council's overall position as a consultee will be forwarded to the Scottish Government as part of the final recommendation.

### ECU - Statutory Consultees

- 6.3 **NatureScot** – have provided a detailed appraisal of the impacts of the proposal and advice. Due to the adoption of NPF4, NatureScot have not provided advice on the landscape and visual effects of this proposal. A range of mitigation measures and conditions are advised with respect to European Protected Species, birds, deer, fish, woodland and peat. NatureScot have not objected to the proposal but advise that a significant level of enhancement and mitigation will be required across each of the subject matters. This will be secured via the submission of management, mitigation and enhancement plans and controlled by planning conditions.
- 6.4 **Historic Environment Scotland (HES)** – have considered the accompanying EIA Report and have no objection to the application. The impacts on the integrity of the setting of the scheduled monuments in the vicinity would not be significantly adverse and would not raise issues of national interest. Overall, it is content that the proposals would not raise issues of national interest for their remit.
- 6.5 **Scottish Water** – No objection, it notes however there is live infrastructure within the proximity of the development area. Any conflicts must be identified and asset impact team contacted for an appraisal of the proposals. Any conflicts with identified assets will be subject to restrictions on proximity of construction. Written permission must be obtained before any works start within its area of apparatus. There are no Scottish Water drinking water catchments or abstraction sources in the area that may be affected by the proposed development.
- 6.6 **Scottish Environmental Protection Agency (SEPA)** – Submitted an initial consultation response on 30 August 2023. Due to the agreed procedure between SEPA and ECU for Section 36 applications, a holding objection has not been issued. However, SEPA have noted concerns with the proposed layout and have highlighted areas of insufficient information to allow it to determine the potential impacts. A request for further information has been issued.
- 6.7 In terms of peat and carbon rich soil, it was requested that the Peat Management Plan (PMP) is updated to demonstrate compliance with Policy 5 of NPF4, as the submitted PMP predates the adoption of NPF4.

- 6.8 Regarding Groundwater Dependent Terrestrial Ecosystems (GWDTEs), the proposed access route crosses an area with high potential GWDTE dependency and two with high/moderate potential dependency. SEPA questioned why access cannot be achieved elsewhere to avoid adverse impacts. If the proposed route is the only viable means of access, confirmation of track floating and/or mitigation will be required. Detailed site specific qualitative and/or quantitative risk assessment will be required for any elements of excavated development that is within moderate to high areas of potential GWDTE dependency.
- 6.9 The route of the proposed track is also within the 50m of an unnamed watercourse that runs down into Pinwherry. SEPA requested that this route is amended to meet the buffer requirements. SEPA have questioned why the 'normal' access route near to the site which does appears to be unconstrained cannot be used.
- 6.10 **Transport Scotland** – Satisfied that the increase in traffic associated with construction of the development will not exceed the threshold present in the IMEA guidelines and that no further assessment is required. TS is satisfied with the submitted EIAR and has no objection to the development in terms of environmental impacts on the trunk road network. TS has requested three planning conditions in relation to abnormal loads and traffic management.
- 6.11 **Scottish Forestry** – Advise the estimated felling is inaccurate with more trees (approximately 250ha) being felled than necessary to facilitate the development. Scottish Forestry have requested that the applicant reworks the Forestry chapter of the EIA to address this.
- 6.12 **Royal Society of Protection of Birds (RSPB)** – No response received by ECU.

#### **Internal Scottish Government Advisors**

- 6.13 **Ironside Farrar (Peat)** – have technically assessed the Peat Landslide Hazard and Risk Assessment(s) (PHLRAs) submitted by the applicant. Peat landslide risk is considered to be negligible to low within the PHLRA for the majority of the proposed development therefore only generic mitigation and good practice measures have been provided. Ironside Farrar consider this mitigation to be acceptable; however, further specific mitigation will be required if Turbines 13 and 4 are confirmed to be in moderate risk areas. Ironside Farrar advise that the PLHRA requires minor revisions and has provided a list of recommendations requiring clarification from the developer.

#### **ECU Non-statutory Consultees**

- 6.14 **Defence Infrastructure Organisation (MOD)** – have no objection to the proposal subject to the conditions set out in appendix A of their consultation response. In this case, the development falls within a Tactical Training Area (TTA 20T), within which fixed wing aircraft may operate as low as 30.5m above ground level to conduct low level flight training. Given the scale and location of the development, MOD require a condition that the development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately chartered to allow deconfliction. The MOD also require the submission, approval and implementation of an aviation safety lighting specification that details the installation of MOD accredited aviation safety lighting. This should be approved by the Scottish Government in conjunction with the Civil Aviation Authority and the MOD.
- 6.15 **Civil Aviation Authority (CAA)** – No response received by ECU.
- 6.16 **Glasgow Airport** – No objection.
- 6.17 **Glasgow Prestwick Airport** – have lodged a holding objection on grounds of aviation safety concerns which may impact the airport as an Air Navigation Services Provider (ANSP). The Airport is actively engaged with the Developer, with an expectation that a resolution to the aviation safety issues discussed above is achievable.

- 6.18 **NATS Safeguarding** – advised that the proposed development has been examined from a technical safeguarding aspect and does not conflict with its safeguarding criteria. It there has no safeguarding objection to the proposal
- 6.19 **Ayrshire Rivers Trust (ART)** – advise that the proposed development should have appropriate risk assessments, relevant monitoring programmes and a suitable mitigation strategy in place to protect fish, invertebrates, and fisheries before any onsite work commences.
- 6.20 **Joint Radio Company (JRC)** – No objection, the proposal is acceptable with respect to radio link infrastructure operated by the local energy networks.
- 6.21 **BT (British Telecom)** – No objection.
- 6.22 **Crown Estate Scotland** – No objection.

#### **Neighbouring Councils and Community Council responses received by the ECU**

- 6.23 **Dumfries and Galloway Council** – were initially consulted in June 2023 and responded in July 2023 to advise that an initial formal response would not be issued in this instance. In August 2023, a further consultation response was received from Dumfries and Galloway Roads and Infrastructure Service. This response advised no objection to the proposal in principle, but recommended a series of conditions including the submission and approval of detailed constructions plans and traffic management plans.
- 6.24 **East Ayrshire Council** – has no objection to the application but made several points regarding the application. It notes disappointment at the omission from any of the submitted plans or modelling the potential impact on the Galloway and Southern Ayrshire UNESCO Biosphere and the Galloway International Dark Sky Park. It notes that the Merrick Wild Land Area and Loch Doon Local Landscape are unlikely to be significantly impacted by the development. The Access and Transport arrangements would not affect East Ayrshire.
- 6.25 **Dailly Community Council** – object to the application on a variety of grounds, including the cumulative impact of the development, the negative visual impact, construction traffic impacts, woodland loss and associated impacts, peat degradation, potential contamination of local watercourses, noise and tourism.

#### **South Ayrshire Council Internal Consultees**

- 6.26 **Ayrshire Roads Alliance** – Objection. Based on the submitted information, ARA have not been able to properly assess the feasibility or acceptability of the development proposals on the local road network. They do not consider that it is appropriate to cover such matters by planning conditions. Without supporting information provided which identifies a preferred AIL (abnormal loads) route, and sufficient detail to demonstrate vehicle swept path analysis, structural assessments, appropriate mitigation etc. ARA have no option but to object to the proposal.

Further information was requested by the Planning Service on several occasions (for over 1 year), giving the applicant the opportunity to address the concerns of the Ayrshire Roads Alliance. However, it was not received until 29<sup>th</sup> April 2025 leaving insufficient time for review and assessment before finalising this report. As the Council must respond to this consultation by 16 May 2025, with no scope for extension, the submitted information has not been taken into account within the assessment.

- 6.27 Council's Ecology and **Biodiversity Consultant (Stantec Ecology)** - Objection unless the conditions recommended are attached to any consent. A post consent monitoring plan of collisions including carcass searches for Goshawks is recommended. Pre-construction surveys, and species protection plans as part of a Construction Environment Management Plan (CEMP) condition are also recommended.

- 6.28 Council's **Environmental Health Service** – Objection unless the conditions in relation to water impacts, shadow flicker and construction impacts (dust) are attached to any consent.
- 6.29 Council's **Landscape Consultant (Carol Anderson Associates)** – No objection subject to mitigation. The proposal would be seen simultaneously and sequentially with a number of operational, consented and proposed wind farms; however, it would not make a major contribution to significant cumulative landscape and visual effects.
- 6.30 Council's **Noise Consultant (ACCON)** – Objection unless the conditions in relation to noise limits and controls are attached to any consent.
- 6.31 **West of Scotland Archaeology Service (WoSAS)** – Objection unless a condition for the submission of a Written Scheme of Investigation (WSI) prior to the commencement of development is attached to any consent.

## 7. Applicant's Supporting Information

- 7.1 The application submission to Scottish Ministers is accompanied by a range of supporting documentation. This includes a Planning Statement, an Environmental Impact Assessment Report (EIA Report), A Non-Technical Summary, a Landscape Design Strategy and Statement of Community Consultation alongside a suite of accompanying plans, drawings, visualisations, and photomontages.
- 7.2 The EIA Report considers the following principal topics: Planning and Energy Policy, Landscape and Visual, Cultural Heritage, Ornithology, Ecology, Geology, Hydrology and Hydrogeology, Forestry, Access, Traffic and Transport, Noise, Aviation, Shadow Flicker, Telecommunications, Socioeconomics and Carbon Balance. Several technical appendices assessing different specific matters within these broader topic areas also supplement the main EIA Report and chapters where relevant.

## 8. Planning History

- 8.1 The most notable planning history for the site is the several operational, recently determined windfarms within the surrounding landscape of the application site. Additionally, a number of wind farm proposals are currently in the planning phase with consent still to be determined.
- **Clauchrie Wind Farm** is the nearest proposed wind farm to the development but was refused by Scottish Ministers following a Public Local Inquiry (PLI) on 31 August 2023, primarily due to the significant adverse impact on the Merrick Wild Land Area.
  - The proposed **Carrick, Craiginmoddie and Knockcronal** wind farm proposals are located approximately 8.6km, 10.9km, and 13.3km respectively from the proposed Knockodhar development, respectively. These three wind farms have been subject to a conjoined PLI in 2023 and decisions from Scottish Ministers on each are pending.
  - The nearest operational wind farms are the **Mark Hill** (1.8km from proposed site), **Hadyard Hill** (4km from proposed site) and **Assel Valley** (5.6km from proposed site). A full table of all Wind Farms within 20km of the proposed site as of 30<sup>th</sup> September 2022. can be found in Table 2.2 of the applicant's EIAR Chapter 2. This date was agreed as a 'cut off' date for cumulative assessment purposes as agreed with consultees.

## 9. Development Plan

- 9.1 The proposal has been submitted under Section 36 of the Electricity Act 1989 and consequently Section 25 of The Town and Country Planning (Scotland) Act 1997 (as amended), which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise, does not apply in this instance. However, the Development Plan remains a significant material consideration as deemed planning permission will be granted if Scottish Ministers approve the development.
- 9.2 Following the implementation of The Planning (Scotland) Act 2019 and the adoption of National Planning Framework 4 (NPF4) on 13 February 2023, the current Development Plan for South Ayrshire incorporates NPF4 and the South Ayrshire Local Development Plan 2 (LDP2) (2022)
- 9.3 Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”); Section 24(3)). NPF4 was adopted after the adoption of LDP2, therefore NPF4 will prevail in the event of any incompatibility between the policy frameworks.
- 9.4 NPF4 and the policies which apply in the context of the development proposal subject to this application largely overlap with the policy considerations and requirements of LDP2. Whilst there are some differences in specific criteria requirements within certain consistent and overarching policies between NPF4 and LDP2, it is not considered that any of these would constitute an apparent material policy conflict which would require a particular policy of NPF4 to be considered in place of a policy in LDP2. Greater weighting will be given to the assessment criteria for renewable energy within NPF4 than in LDP2 as it is the most up to date policy on this subject.

### NPF4

- 9.5 NPF4 confirms that the purpose of planning is to manage the development and use of land in the long-term public interest. NPF4 also maintains a plan-led system and provides a long-term spatial strategy to 2045 based around enabling the transition to net zero emissions and environmental sustainability; driving inclusive economic growth; and building resilient and sustainable places, which adapt to the impacts of climate change, whilst protecting, recovering, and restoring our environment.
- 9.6 The primary development plan policy which the proposal will be assessed against is **NPF4 Policy 11 – Energy**.
- 9.7 The following policies of NPF4 are also applicable to the assessment of the application and can viewed in full at <https://www.gov.scot/publications/national-planning-framework-4/>.
- Policy 1 – Tackling the climate and nature crises
  - Policy 2 – Climate mitigation and adaption
  - Policy 3 – Biodiversity
  - Policy 4 – Natural Places
  - Policy 5 – Soils
  - Policy 6 – Forestry Woodland and Trees
  - Policy 7 – Historic assets and places
  - Policy 11 – Energy
  - Policy 22 – Flood Risk and Water Management
  - Policy 25 – Community Wealth Building
  - Policy 29 – Rural Development
- 9.8 It is important to note that the provisions of NPF4 must be read and applied as a whole and as such no policies should be read in isolation. An assessment of the proposal against the provisions of NPF4 and the above policies is set out below.

- 9.9 It is worthwhile to note that in assessing the proposal, the Council is not the determining authority and is providing comments as a Statutory Consultee to the Scottish Ministers
- 9.10 As NPF4 is the most recent document, the policies within it have been used as the basis for the report and relevant sections of the LDP2 Policy and Planning Guidance criteria are addressed with each relevant NPF4 Policy.

#### **NPF4 - National Developments**

- 9.11 National developments are significant developments of national importance that will help to deliver the Spatial Strategy for Scotland. NPF4 identifies 18 national developments that aid in supporting the delivery of this strategy and Scotland's commitment to net zero. These support the planning and delivery of:
- sustainable places, where we reduce emissions, restore and better connect biodiversity;
  - liveable places, where we can all live better, healthier lives; and
  - productive places, where we have a greener, fairer and more inclusive wellbeing economy.
- 9.12 Six of the national developments support the delivery of sustainable places which is of most relevance to this proposed development. National Development 3 covers Strategic Renewable Electricity Generation and Transmission Infrastructure to support renewable electricity generation and associated grid infrastructure around Scotland. This sets out that any on shore electricity generation development from renewables exceeding 50MW capacity and would normally be classed as a major application, would also constitute a National Development.
- 9.13 As this proposal is an onshore wind farm exceeding 50MW, it would constitute a National Development and would help support the overarching aims of the NPF4 and spatial strategies to achieve net zero targets and provide renewable energy. National development status does not mean permission is automatically granted for the development and all require to be robustly assessed.
- 9.14 NPF4 and their designation as a National Development means that the principle of the development is considered acceptable but a full understanding of the potential impacts and required mitigation is required before any determination can be made.

#### **South Ayrshire Council Local Development Plan 2 (LDP2)**

- 9.15 The following policies of LDP2 are considered relevant in the assessment of the application can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx>.
- LDP Spatial Strategy
  - Strategic Policy 1: Sustainable Development
  - Strategic Policy 2: Development Management
  - LDP Policy: Landscape Quality
  - LDP Policy: Woodland and forestry
  - LDP Policy: Preserving Trees
  - LDP Policy: Water Environment
  - LDP Policy: Flood and Development
  - LDP Policy: Agricultural Land
  - LDP Policy: Air, Noise and Light Pollution
  - LDP Policy: Renewable Energy
  - LDP Policy: Historic Environment
  - LDP Policy: Natural Heritage
  - LDP Policy: Land Use and Transport

- 9.16 As per NPF4, the provisions of LDP2 must be read and applied as a whole and as such, no single policy should be read in isolation. The application has been considered in this context and alongside NPF4.

## 10. Assessment

- 10.1 This report will be structured to assess the relevant and comparable policies within NPF4 and LDP2 together and assess any which are only in one part of the Development Plan separately. With NPF4 being the most recent Development Plan document, these policies have been used as the main structure for the report with the relevant LDP2 policies referenced and considered throughout the assessment.

- 10.2 Having regard to the Development Plan policy considerations set out above, the following matters have been identified in the proceeding sub-sections below.

### Sustainable Places

- 10.3 Both NPF4 and LDP2 promote sustainable development through creating sustainable places that respect the environment and manage and adapt to the effects of Climate Change. Tackling the climate and nature crises, through climate mitigation and adaptation, is a key requirement of the following NPF4 policies and Strategic Policy 1 in LDP2.

- 10.4 **NPF4 Policy 1 – Tackling the climate and nature crises:** When considering all development proposals significant weight will be given to the global climate and nature crises.

- 10.5 **NPF4 Policy 2 – Climate mitigation and adoption:** Seeks to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

- 10.6 **LDP Strategic Policy 1 - Sustainable Development:** Supports the principles of sustainable development by making sure that development meets the standards set out within the policy. The relevant standards are considered to be:

- Respects, protects and where possible, enhances natural, built and cultural heritage resources.
- Protects and safeguards the integrity of designated sites.
- Protects peat resources and carbon rich soils.
- Does not have a negative effect on air or water quality.
- Respects the character of the landscape and the setting of settlements.
- Respects, and where possible contributes to the Central Scotland Green Network.
- Makes efficient use of land and resources
- Helps mitigate and adapt to the effects of climate change
- When considering development proposals, due weight will be given to the consideration of net economic benefit.

- 10.7 The Scottish Government policies, commitments and targets for sustainable energy are set out in the ministerial statements, key policy documents and statute. The key ministerial statements and policies considered as part of the assessment of the current proposals are The Scottish Government's Declaration of a Climate Emergency (2019), the emissions reductions targets set out in the Climate Change (Emissions Reduction) (Scotland) Act 2019, The Scottish Energy Strategy (December 2017), and the Scottish Climate Change Plan 2018 to 2032 (2020 updated). The onshore Wind Policy Statement 2022 sets out an ambition of achieving 20GW of onshore wind capacity in Scotland by 2030.

- 10.8 There is a clear national and local policy emphasis towards tackling the climate crisis and a drive towards green energy and reduction of carbon. NPF4 sets out that significant weight must be given to tackling the climate and nature crises and thereby proposals which support tackling these, would have significant support. Discussion on the nature crisis will be set out later in the report with this section focussing on the climate crisis impact. NPF4 also sets out that any development should be sited and constructed in a way to minimise lifecycle greenhouse gases. These aims need also be put in the context of sustainable development which aims to ensure that development is carried out sustainability without significant detrimental impacts which would outweigh the developments positives and carbon reduction benefits. Policy 1 of the South Ayrshire Local Development Plan 2 sets out criteria in this regard. NPF4 puts forward a presumption in favour of development which will help tackle the climate and nature crises, but this must be balanced against any significant detrimental impacts of a development which may outweigh these positives.
- 10.9 The supporting information submitted with the application sets out that the proposal will generate approximately 93MW of renewable electricity, supported by an ESS of up to 20MW, which help meet the Scottish Government's renewable energy generation targets in the post 2020 period.
- 10.10 **Chapter 7.1.5** of the applicants **Planning Statement** states that the proposed development would help meet the Scottish Government's Net Zero greenhouse gas emission target by 2045 as well as the key interim target of 2030 target of a 75% reduction compared to 1990 levels.
- 10.11 **EIAR Chapter 19 - Carbon Balance** uses a carbon calculator tool, which is designed for applications for the construction and operation of onshore wind farms in Scotland located where peat is present. It states that on the basis of potential annual CO<sub>2</sub> savings of 91,505t/year, the proposed development could result in a total carbon saving of 3.2 million tonnes over its 35-year operational life. It is predicted that carbon loss in developing the proposal would be paid back in approximately 2.7 years, based upon the expected outcome under the fossil fuel mix, the proposed development would have achieved the carbon balance within approximately 6.5 years.
- 10.12 It is considered that the development would comply with NPF4 Policies 1 and 2 as the proposal would assist in tackling the climate crisis and would have a positive effect in terms of greenhouse gas emission reduction targets.
- 10.13 In terms of LDP2 Strategic Policy 1, it is considered that the proposal meets the criteria specified within the policy. Detailed assessment against the specific applicable criteria within this policy are set out within other sections of the report. There is a notable overlap between the criteria of LDP Strategic Policy 1 and NPF4 Policy 11 - Energy, therefore these matters will be discussed in appropriate sections below to avoid unnecessary repetition.

### **Conclusion on Sustainable Places**

- 10.14 The proposal is considered to meet the objectives and overarching policies of tackling the climate and nature crises which are the primary policies of NPF4 and the sustainable development policies of the LDP2. This compliance with the Development Plan is considered to add significant weight in the decision-making process for this development.

## Renewable Energy

- 10.15 **NPF4 Policy 11 – Energy** is the most relevant policy for the proposed development. This policy encourages, promotes and facilitates all forms of renewable energy development onshore and offshore. This policy sets out detailed criteria for assessment of this type of development and this will be used to structure the report. The corresponding criteria from **LDP2 2022 and Wind Energy Planning Policy Guidance 2015** are also assessed under each topic.
- 10.16 NPF4 Policy 11 – Energy states:
- a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:
    - i. wind farms;
    - iii. energy storage, such as battery storage;
    - vii. proposals including co-location of these technologies.
  - b) Development proposals for wind farms in National Parks and National Scenic Areas will not be supported.
  - c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.
  - d) Development proposals that impact on international or national designations will be assessed in relation to Policy 4.
  - e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:
    - i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;
    - ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;
    - iii. public access, including impact on long distance walking and cycling routes and scenic routes;
    - iv. impacts on aviation and defence interests including seismological recording;
    - v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
    - vi. impacts on road traffic and on adjacent trunk roads, including during construction;
    - vii. impacts on historic environment;
    - viii. effects on hydrology, the water environment and flood risk;
    - ix. biodiversity including impacts on birds;
    - x. impacts on trees, woods and forests;
    - xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;
    - xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and
    - xiii. cumulative impacts.
- 10.17 In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.
- 10.18 Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible.
- f) Consents for development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity.

10.19 In assessing the proposed development against the above criteria, it is found that:

#### **Criteria (a) and (b) – Application type and location**

10.20 The proposed development is a wind farm and energy storage system and therefore complies with criteria a. It is not located within a National Park or National Scenic Area, therefore criteria b is not applicable.

#### **Criteria (c) – Socio-economic impact**

10.21 Criteria c only supports development that maximise net economic impacts, including local and community socio-economic benefits. The key socio-economic benefits associated with the proposed development are set out within **EIAR Chapter 18** and are discussed under **NPF4 Policy 25 – Community Wealth Building** They are:

- Potential for £12m and £36.1m to be spent within the South Ayrshire and Scottish economies respectively;
- Creation of 213 onsite and offsite jobs during the 20-month construction period. 13 onsite and 45 offsite jobs in South Ayrshire are predicted.
- Expected benefit to the Ayrshire local economy of £82m and six jobs over the 35-year operational life of the proposed development. The operational and maintenance phase

10.22 The applicant has also arranged a community benefit fund, offering £5,000 per MW per year during the operational life of the proposed development – this is the figure recommended by the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments 2019. This would equate to a total of nearly £466,000 per annum and £16.3m over the lifetime (35 years) of the project to the local community. It should be noted that the community benefit fund is a voluntary arrangement and not a material planning consideration.

10.23 With regards to the potential impact on tourism, **EIAR Chapter 18 – Socio Economics** suggests that based on research to date, there is not considered to be a discernible relationship between the development of onshore wind farms and tourism/recreation. Consequently, it assumes that impacts on individually identified tourism receptors are negligible. This matter is discussed further in this report.

10.24 Overall, it is considered the that net economic benefits of the proposed development have been maximised as far as reasonably possible, and therefore complies with Criteria c.

#### **Criteria (d) – international and national designations**

10.25 This requires detailed assessment of the impact of the proposal on any international or national designations in the area. This impact is considered within each section of Criteria e where applicable.

10.26 Criteria e requires the project design and mitigation impacts to address a number of environmental factors which may be affected by the proposed development. This aligns with the broader policy intentions of the LDP2 which supports renewable energy development provided they do not result in harmful effects on the environment. It should be noted that the NPF4 policy criterion does not specifically state that if any of these impacts are not fully addressed that the development will be unacceptable, only that it must be demonstrated how they have sought to be addressed and suitably mitigated. The criteria within part (e) is assessed in the subsequent sections of the report.

### **Criteria (e)(i) – Impacts on communities and individual dwellings.**

10.27 In considering the appropriateness of the proposed development, NPF4 and LDP2 requires consideration of the impacts of the development on local communities including the amenity of the surrounding residents, visual impacts, noise and dust resulting from the development.

10.28 **Criteria (b) and (e) of LDP2 Policy: Wind Energy** seeks to protect residential amenity and states the following:

*(b) They do not have a significant detrimental visual impact, taking into account views experience from surrounding residential properties and settlements, public roads and paths, significant public viewpoints and important recreational assets and tourist attractions.*

*(e) They would have no other unacceptably detrimental effect upon the amenity of nearby residents, including from noise and shadow flicker*

10.29 **Criteria c** of Communities Quality of Life and Amenity of the Wind Farm Energy Planning Policy Guidance on Wind Energy states:

10.30 ***We will support proposals if:***

*They do not have significant detrimental effect on the amenity of nearby residents, including from noise and shadow flicker.*

10.31 The following LDP2 Policies are also applicable to assessing the impact on communities and individual dwellings:

- **LDP Policy: Sustainable Development**
- **LDP Policy: Air, Noise and Light Pollution**
- **LDP Policy: Land use and Transport**

### **Residential Visual Amenity**

10.32 The SAC Planning Policy Guidance on Wind Energy 2015 states that the design process for wind farms should take into account local residential properties and the extent to which the proposal will be visible. The design process should seek to minimise significant visual effects on private properties and the extent to which the proposal will be visible. Significant visual effects on private properties should be minimised. This section relates specifically to impacts on residential visual amenity. A detailed discussion on wider landscape and visual impacts will be discussed in later sections.

10.33 The Wind Energy Planning Guidance advises that a minimum required separation distance of 2km from towns and villages to a turbine. It also advises that all properties within 2.5km of wind turbines should be assessed for visual amenity impacts.

10.34 A Residential Visual Amenity Assessment (RVAA) (EIAR Appendix 7.3) has been undertaken by the applicant for properties within 2.5km of the proposed wind turbine locations. The RVAA considers effects on 27 residential properties within this distance. The following seven receptors have the potential to be significantly visually effected.

- Lambdouhty Cottage – 1,186m from Proposed Turbine 3
- Lambdoughty – 1,420m from Proposed Turbine 10
- White Knowes – 1,879m from Proposed Turbine 3
- Milk House – 1.903m from Proposed Turbine 10
- Clash Na Croy – 1,950m from Proposed Turbine 10
- Auchiewan 1,998m from Proposed Turbine 10
- Tapathebrae – 2,014m from Proposed Turbine 3

10.35 The applicant considers that none would be affected to such a degree that the residential visual amenity threshold would be breached, due to intervening distance, partial screening and use / orientation of the properties i.e. the proposed development would not make any of the properties an unattractive place to live.

- 10.36 Carol Anderson Landscape Associates has been commissioned on behalf of SAC to review the Landscape and Visual Impact Assessment (LVIA) assessment, photomontages and visualisations submitted by the applicant. It also includes a response to the submitted RVAA by the applicant. It confirms that significant effects on views would be likely to occur 7 residential properties identified in the RVAA. The Planning Authority carried out site visits to each assess whether the Residential Amenity Threshold would be breached.
- 10.37 The RVAA Technical Guidance Note (2019) published by the Landscape Institute provides best practice guidance for assessing private views and private visual amenity. The RVAA threshold is referred to as the effect of the development on Residential Visual Amenity being of such nature or magnitude that it potentially affects living conditions or Residential Amenity. Based on the findings of the site visit, it is acknowledged that at the most sensitive receptors, there would be a visual impact. The extent of this impact however is not considered to breach the Residential Visual Amenity Threshold, with embedded landscape and visual mitigation proposed. This includes variable turbine heights proposed from between 149.9m to 200m and moving turbines away from the edge of Stinchar Valley and Muck Water.

### **Noise**

- 10.38 **EIAR Chapter 14 – Noise** advises that the proposal has been prepared in accordance with ETSU-R-97 (The Assessment and Rating of Noise from Wind Farms) and the Institute of Acoustics (IoA) Good Practice Guide. The EIAR considers that subject to appropriate mitigation, operational noise due to the proposed development in conjunction with surrounding cumulative developments, would comply with the requirements of ETSU-R-97 and the Good Practice Guide at all receptor locations, therefore complying with planning policy.
- 10.39 The Council's appointed noise consultant, ACCON UK Limited, have been internally consulted to review the submitted documents relating to noise in order to inform Council considerations as to whether the noise assessments have been carried out appropriately and to advise on the acceptability or otherwise of the proposals with respect to noise impact.
- 10.40 ACCON concluded that the methodologies used in the noise chapter have followed ETSU-R-97 and the IOA Good Practice Guidance. They do advise that the approach utilised to correct the background noise levels is not strictly in line with current guidance but considers the adopted approach to be reasonable and appropriate given the explanations provided in the EIAR. Subject to proposed conditions imposing noise limits and controls, ACCON have no objection to the proposal.
- 10.41 The Council's Environmental Health Service did not raise any concern regarding construction noise nor propose any noise related conditions. It is considered that any noise issues can be controlled via a Construction Management Plan.
- 10.42 Overall, it is considered that neither operational nor construction noise from the proposed development would result in a significant negative impact on residential amenity.

### **Shadow Flicker**

- 10.43 Under certain conditions when the sun passes behind the rotors of a turbine a shadow can be cast on neighbouring properties. When the blades rotate a flicking on and off effect is created by the shadow, referred to as "Shadow Flicker". This can be a considerable nuisance to residents within nearby properties. Although there are no local or national UK mandatory requirements or criteria in relation to shadow effects caused by wind turbines, a report prepared for the Department of Energy and Climate Change suggests that a maximum of 30 hours of shadow flicker in a calendar year is a threshold for consideration, ideally with no longer than 30 minutes on any single occasion.

- 10.44 The incidence of “Shadow Flicker” is considered only to be an issue of significant concern if the distance between the nearest dwelling and rotor blades is less than 10 times the diameter of those blades. Additional guidance states that in the UK the limit of the zone is between 130 degrees either side of north. The Councils Wind Energy Planning Policy Guidance requires an assessment to be undertaken for all properties within 2.5 km of a proposed development (this distance threshold should take into account any screening of turbines offered by topography).
- 10.45 **EIAR Chapter 16 - Shadow Flicker** assesses the potential shadow flicker effects on identified properties within 2.5km of the proposed turbine locations. Of the 27 properties assessed, the following 15 properties have the potential to experience shadow flicker as a result of the proposed development alone and four (highlighted below) may experience cumulative shadow flicker effects in combination with other wind farms.
- **Balligmorrie Cottage – 10.7 hours per annum**
  - **Balligmorrie Farm – 8.1 hours per annum**
  - Benan Farm – 3.3 hours per annum
  - Cairnwhin Farm - 8.2 hours per annum
  - Clach Na Croy – 6.8 hours per annum
  - Kirkland Farm – 2 hours per annum
  - Lamdoughty Cottage – 20.7 hours per annum
  - Lamdoughty Farmhouse – 16.2 hours per annum
  - Lilybank Cottage – 5.1 hours per annum
  - **Mark Farm – 5.5 hours per annum**
  - Milk House – 6.9 hours per annum
  - **Minuntion Farm – 1.7 hours per annum**
  - Strawberry Fields – 5.8 hours per annum
  - Tapathbrae – 5 hours per annum
  - Traboyack Farm - 7 hours per annum
- 10.46 Subject to appropriate mitigation however, whereby the operation of a turbine(s) is paused at specific times, shadow flicker levels due to the proposed development would be within recommended limits at all potentially sensitive properties.
- 10.47 The Councils Environmental Health Service have not raised any objection with respect to shadow flicker and but have advised a condition could be imposed to prevent nuisance to residents from shadow flicker should it ever arise.
- 10.48 Overall, the assessment of shadow flicker indicates that there would be no significant detrimental effect on residential amenity, which could be ensured by appropriate planning condition.

#### **Construction Dust**

- 10.49 SAC’s Environmental Health Service have advised on conditions to limit the creation of dust during the construction and operation of the proposal, to protect residential amenity. Prior to the commencement of development, the applicant would be required to submit a Dust Management Plan to minimise the emission of dust.

#### **Conclusion on residential amenity assessment**

- 10.50 Overall, whilst there are no significant issues identified, there are sufficient controls through proposed planning conditions that can mitigate potential significant impacts on noise and dust. In addition, a planning condition is proposed which would ensure mitigation is provided for any property which might experience an impact with regards shadow flicker. The impact on the nearest properties would not be so significant as to be unacceptable particularly when weighted against the benefits of renewable energy in tackling the climate crisis. The proposal is therefore considered to accord with the Development Plan in this regard.

## Criteria e(ii) Landscape and Visual Impact

- 10.51 **NPF4 Policy 4 - Natural Places:** aims to protect, restore and enhance natural assets making best use of nature-based solutions. Under this criterion, NPF4 sets out that significant landscape and visual impacts needs considered, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable. **NPF Policy 11 - Energy** also sets out that development proposals that impact on international or national designations will be assessed in relation to Policy 4.
- 10.52 **LDP2 Policy Landscape Quality** *aims to maintain and improve the quality of South Ayrshire's landscape and its distinctive local characteristics. Proposals for development must conserve features that contribute to local distinctiveness, including:*
- a. Community settings, including the approaches to settlements, and buildings within the landscape;*
  - b. Patterns of woodland, fields, hedgerow and tree features;*
  - c. Special qualities of river, estuaries and coasts;*
  - d. Historic and cultural landscape;*
  - e. Geodiversity of the area;*
  - f. Skylines and hill features, including prominent views.*
- 10.53 The corresponding LDP2 policy outlined above seeks to maintain and preserve the local landscape qualities and characteristics by meeting criteria a-f.
- 10.54 **LDP2 Policy: Wind Energy** states the following:
- 10.55 *All proposals will be assessed against the following criteria:*
- a. They consider and respect the main landscape features and character through careful site selection, layout and overall design. Potential impacts will be mitigated appropriately to ensure that significant effects on the landscape and the wider area are minimised;*
  - b. They do not have a significant detrimental visual impact, taking into account views experienced from surrounding residential properties and settlements, public roads and paths, significant public viewpoints, and important recreational assets and tourist attractions.*
- 10.56 Criterion (a) and (b) of the Wind Farm Energy Planning Policy Guidance provides advice on landscape character and visual impacts, which states:
- 10.57 The Council will support proposals if:
- *They are capable of being accommodated in the landscape in a manner which respects its main features and character (as identified in the South Ayrshire Landscape Wind Capacity Study or in any subsequent updates to that study), and which keeps their effect on the landscape and the wider area to a minimum (though careful choice of site, layout, and overall design and;*
  - *They do not have a significant detrimental visual impact, taking into account views experienced from surrounding residential properties and settlements, public roads and paths, significant public viewpoints and important recreational assets and tourist attractions.*
- 10.58 The following LDP2 Policies are also applicable
- **LDP Policy: Sustainable Development**
  - **LDP Policy: Landscape Quality**
  - **LDP Policy: Dark skies**
- 10.59 Before assessing the landscape and visual impact of the development, it is important to set out the policy hierarchy and context for assessment following the adoption of NPF4 in February 2023 and LDP2 in August 2022.

- 10.60 Prior to 2023, the main policy assessment was based on the LDP (2017) and the Supplementary Guidance: Wind Energy (now non-statutory Planning Policy Guidance (PPG)) which formed part of the Development Plan at that time. The LDP and PPG contained a spatial framework which was drafted in accordance with the criteria for wind farm capacity set out within Scottish Planning Policy (SPP)(2014).
- 10.61 Following adoption of LDP2, The Wind Energy Supplementary Guidance is no longer 'Supplementary' Guidance and not part of the Development Plan. It is however Planning Policy Guidance (PPG) and remains a material consideration. Following the adoption of NPF4 this now forms part of the Development Plan along with LDP 2. SPP (2014) is no longer relevant including the spatial framework within it.
- 10.62 While Section 25 of the Planning Act does not apply to the determination of this application, the policies within the Development Plan are significant material considerations and used as the basis for assessment because they are land use policies and this is a land use proposal. For assessing the visual and landscape effects of this development as NPF4 is the newest document in the Development Plan, and if it is any conflict with LDP2 in terms of assessment weighting or criteria, NPF4 should be given the greatest weight.
- 10.63 Unlike SPP 2014, NPF4 does not include any spatial frameworks. The policies discuss situations in which windfarms should not be supported. NPF4 also outlines that localised impacts are to be expected of energy development and generally this should not render a proposal unacceptable.
- 10.64 **NPF4 Policy 4 – Natural Places** also sets the relevant for national and international considerations that require to be considered. The assessment of landscape and visual impacts will remain consistent with recent and previous reports identifying where significant effects may exist. However, the consideration of whether these impacts would result in the proposal being unacceptable will be different based on the new weighting given to each relevant policy.

### **Proposal and Design Overview**

- 10.65 The proposed development comprises 16 turbines between 149,9m and 200m high to blade tip, an Energy Storage System and other ancillary infrastructure lying approximately 4km to the south-west of the settlement of Barr. Six of the outer turbines would require visible aviation lighting comprising red 2000 candela visible aviation lights attached at the nacelle (top of the tower, connected to the rotor). These lights would be dimmed to 200 candela during clear atmospheric conditions. The horizontal angle of lighting will be restricted, reducing intensity when seen from lower elevations. The proposed development would be located in a productive coniferous forest. Advance felling of 356 hectares of forest would be undertaken to accommodate the wind farm and there would be a net loss of 72.1 hectares of coniferous forest. Several other wind farms developments are visible within the surrounding landscape.
- 10.66 The Landscape and Visual Impact Assessment (LVIA) set out in Chapter 7 of the EIAR complies with the Guidelines for Landscape and Visual Impact Assessment Third Edition. The assessment is comprehensive and well-considered. The visualisations also accord with best practice guidance and are clearly set out with detailed location maps. The Landscape Design Strategy document is useful in showing the changes that have been made to the 2020 Scoping layout which comprised 32 turbines.
- 10.67 The initial layout submitted at the Scoping stage of the proposal which contained 32 turbines has been considerably improved by a reduction in the number of turbines to 16, the increased 'set back' of turbines from key viewpoints located in the Stinchar and Duisk valleys and the use of variable turbine heights. Key improvements include the significantly reduced intrusion on views from the settlement of Barr (Viewpoint 2), on views from the B734 in the Stinchar valley (Viewpoint 1) and from the Duisk valley (Viewpoint 5). The horizontal extent of the turbines appreciated from elevated views, such as from Auchensoul and Byne Hills, has been substantially reduced and the congested appearance of the Scoping layout alleviated from key viewpoints, most notably looking east from Colmonell and in views from the A714.

- 10.68 Expert assessment of the LVIA impacts of the proposed development has been provided by the Council's appointed Landscape Consultant Carol Anderson and is detailed in her Landscape and Visual Consultation Response.

### **Effects on Landscape Character**

- 10.69 The 2018 South Ayrshire Landscape Wind Capacity Study (SALWCS) provides strategic information and guidance on wind energy development. The proposed development would be sited within the *Plateau Moorlands with Forestry and Wind Farms* Landscape Character Type (LCT). The increased scale, simple landform and land cover and sparsely settled nature of this LCT generally reduces susceptibility to larger turbines although the outer edges of these uplands are of increased susceptibility because of their proximity to the smaller-scale and more sensitive Stinchar and Duisk valleys. The setting and character of the rugged High Carrick and Galloway Hills is noted as a key constraint to development in the eastern part of this LCT. The SALWCS concludes that this LCT has a High-medium sensitivity to turbines >130m.
- 10.70 While effects on the host landscape of the *Plateau Moorlands with Forestry and Wind Farms* LCT would be significant and adverse, the larger scale and generally simple landform and landcover and the lower value associated with this landscape reduces sensitivity and the severity of these effects on its character.
- 10.71 The Proposed Development would also be likely to incur significant adverse effects on relatively small parts of the *Intimate Pastoral Valley* LCT. These effects would principally occur in the area south-west of Barr and in the Colmonell to Pinwherry area where turbines would interrupt presently open skylines and south-west of Barr. This proposal would contribute to combined cumulative effects on landscape character with the operational and consented wind farms of Assel Valley, Hadyard Hill and Arecloch extension which are seen from the Stinchar valley although the setting back of the turbines and degree of screening by landform and forestry reduces its effects on landscape character when compared with these developments.

### **Effects on Views**

#### *General visibility of the Proposal*

- 10.72 There would be no visibility from the floor and lower slopes of the upper Stinchar valley east of Barr. There would be some relatively limited visibility from the B734 to the south-west of Barr and east of Colmonell within the Stinchar valley. This proposal would be visible from the upper Duisk valley south-east of Barrhill but would be seen behind the operational Mark Hill wind farm reducing landscape and visual effects. While the proposed wind farm would be seen in longer views from the east, for example from the High Carrick Hills, the turbines would appear 'set down' with bases largely screened by forestry which would reduce intrusion. The wind farm would be most intrusive in views from the upper hill slopes and summits of nearby hills, for example from Auchensoul and Byne Hills.
- 10.73 Views from the settlements of Barr, Barrhill and Colmonell would be limited. Significant effects would principally occur from a short section of the A714 (Viewpoint 5) where the turbines would appear in a tight group in the gap created by the Muck Water valley. There would also be significant adverse effects on a short section of the B734 (Viewpoint 1) to the south-west of Barr.
- 10.74 The proposed development would be most intrusive in views from elevated slopes and hill summits including Auchensoul and Byne Hills which lie close to the Stinchar valley. While effects on views from these hills would be significant and adverse, the proposed development would be seen together with a number of operational and consented wind farms reducing the magnitude of change to some degree.
- 10.75 While adverse effects would occur on views from the High Carrick Hills (Viewpoint 11), these would not be of sufficient magnitude of change (given the distance and the low positioning of the turbines whereby towers are substantially screened by landform and forestry) to result in these effects being significant.

- 10.76 Visible aviation lighting will extend the duration of significant adverse effects on night-time views in close-by views from some residential properties and Core Paths.
- 10.77 The assessment of effects on views due to aviation lighting is presented in EIAR Appendix 7.4. It concludes there would be no significant night-time effects on views from settlements and transport routes. There would be significant effects on White Knowes Cottage and the adjacent forestry track (Right of way SKC3) and part of Scottish Hill Track 68. These impacts however would be limited to periods of poor visibility when lights are operating at maximum intensity (2% of the time).

### **Effects on landscape designations and other valued landscapes**

#### *South Ayrshire Local Landscape Areas*

- 10.78 The Proposed Development does not lie in a designated landscape but would be visible from parts of the *Stinchar Valley* and *The High Carrick Hills* Local Landscape Areas (LLAs). The LVIA considers effects on these LLAs and concludes that the integrity of each of these LLAs would not be compromised by the proposal. The landscape consultant agrees with the LVIA that effects on the character and special qualities of the *High Carrick Hills* LLA would not be significant.
- 10.79 The landscape consultant also considers that while there would be some adverse effects on the special qualities of the *Stinchar Valley* LLA, the association of the proposal with a simpler upland skyline together with the limited extent of visual intrusion (due to the positioning of the turbines set back from the most prominent side slopes of this valley) would result in a reduced severity of effect and I therefore consider that the integrity of the LLA would not be compromised.
- 10.80 Effects on the character and special qualities of the *High Carrick Hills* LLA would not be significant.
- 10.81 There is considered to be some adverse effects on the special qualities of the *Stinchar Valley* LLA, the association of the proposal with a simpler upland skyline together with the limited extent of visual intrusion (due to the positioning of the turbines set back from the most prominent side slopes of this valley) would result in a reduced severity of effect and I therefore the integrity of the LLA would not be compromised.

#### *East Ayrshire Local Landscape Areas*

- 10.82 The consultation response from East Ayrshire Council noted that there are areas of landscape sensitivity within their authority area that may be affected by the development which are the Merrick Wild Land Area and the Loch Doon LLA. These areas have been identified and taken into account in Zone of Theoretical Visibility (ZTV) mapping. The development is not expected to be visible from the southern shores of Loch Doon due to the shielding effect from the Merrick Hills. There is theoretical visibility expected at the Northern shores of Loch Doon but this is not considered to be of great detriment, due to presence of existing wind farms in this area. The submitted Nacelle Lighting Cumulative ZTV shows there are a number of consented wind farms already visible from the Loch Doon Local Landscape Area, and that this new development is not expected itself to be visible.

### **Cumulative landscape and visual effects with other consented or application stage wind farms**

- 10.83 Cumulative effects with operational wind farms are considered in the description of landscape and visual effects set out above.
- 10.84 This proposal would be seen sequentially with the consented Arecleoch extension wind farm in views from the A714 and B734 in the lower Stinchar valley. The distance between these two developments is such that significant cumulative landscape and visual effects would not arise.

- 10.85 This proposal would principally be seen simultaneously and sequentially with the proposed Clauchrie, Carrick and Craiginmoddie wind farms in views from the upper Stinchar valley, from nearby hills accessed by walkers and from parts of the Barr Trails. It should be noted however that the Clauchrie Wind Farm proposal has been refused and therefore will not contribute to cumulative impacts.
- 10.86 It is considered that combined significant adverse cumulative effects would arise from this scenario in these views although this proposal would not make a major contribution to these effects when seen in lower elevation views. This proposal would make a minor contribution to cumulative effects experienced from the High Carrick Hills when compared to greater prominence of the Carrick, Clauchrie (now refused), Craiginmoddie, Knockcronal and Sclenteuch wind farm proposals.

### **Tourism and Recreation**

- 10.87 The tourism sector is important to the South Ayrshire economy with a significant potential for growth. This expansion will be dependent on the maintenance and enhancement of environmental quality whilst ensuring that the assets on which the sector is based are protected from the impacts of inappropriate development. These objectives are reflected within the policy framework of LDP2
- 10.88 Assets in South Ayrshire and surrounding areas particularly sensitive to inappropriate development include areas designated for their scenic or recreational potential, such as the Galloway Hills, the Galloway Forest Park, the Dark Skies Park and the Galloway & Southern Ayrshire Biosphere and its associated ecosystem centred around a series of core Natura sites. The application site is located within the transition zone of the Galloway and Southern Ayrshire Biosphere and is 12km east of the Merrick Wild Land Area (WLA).
- 10.89 Within **EIA Chapter 18 – Socio Economics** considers the impacts and effects of the proposed development concerning tourism. There are several research pieces cited on the relationship between onshore wind farm development and tourism. Amongst this research the applicant advises that there is no measurable economic impact, either beneficial or adverse, of wind farms on tourism.
- 10.90 Research by Biggar Economics published in 2021, confirms that this is the case in Scotland. The number of turbines increased from 1,082 in 2009 to 3,772 in 2019. Across the same period, tourism-related sectors in Scotland also grew by 20% and strongest in predominantly rural local authority areas. Analysis of the rates of change in the number of onshore wind turbines and in tourism-related employment in local authority areas again finds that in local authorities that had seen the largest increase in onshore wind energy activity had performed just as well, if not better, than other areas in Scotland.
- 10.91 In terms of recreational use and access, NatureScot in its consultation response advised that they may have objected to the proposal if submitted in its form at the scoping stage, due to the significant adverse impacts on the Merrick Wild Land Area. Since this time, there has been a significant policy shift in relation to Wild Land. The final sentence of NPF4 Policy 4 (g) states:
- “Effects of development outwith wild land areas will not be a significant consideration”*
- 10.92 As the proposed development is not within a WLA, the effects of the proposed development on the qualities of the wild land area will not be a significant consideration. This applies to the application individually and cumulatively along with other applications affecting the Merrick WLA.
- 10.93 Dailly Community Council objected to the proposal on a variety of grounds, including effects on tourism. It considers that the area is heavy reliant on tourism and the attractions such as the Merrick WLA, UNESCO Biosphere and the Dark Sky Park. The Community Council considers that there is a lack of independent research up-to-date information to demonstrate that tourism would not be negatively impacted by the proposed development and wind farms in general.

- 10.94 The Council's Outdoor Access Officer did not object to the proposal but also noted that the area is very popular with visitors and local residents for outdoor activities, noting tourists and visitors to the area are a vital support to the fragile economies of rural communities. The Outdoor Access Officer advised that many of the wind farms in the surrounding area could offer excellent facilities for public outdoor access, however many of these are obstructed, have restricted access and do not link with other wind farms. The provision of public access, tracks and signage from public roads linking to other wind farms is recommended, which would enhance access opportunities for the public and visitors. This would be difficult for the applicant to achieve as it would require agreement from other landowners. The provision of improved signage and other features recommended by the Outdoor Access Officer could be secured via conditions, in order to ensure existing public access routes are protected and enhanced.
- 10.95 **EIAR Chapter 13 – Access, Traffic and Transport** considers that there would be a positive direct impact on informal recreation once the development is operational, as the new and upgraded tracks will improve accessibility throughout the site boundary. A condition to ensure access tracks within the site are provided and maintained plus signage to other paths and tracks will help ensure that there is no adverse impact on recreational use in the area.

#### **Conclusion on tourism and recreation**

- 10.96 As discussed within the Socio-Economic section of the report, Chapter 18 of the EIAR assumed a negligible impact on identified tourism receptors, as it finds no discernible relationship between the development of onshore wind farms and tourism/recreation.
- 10.97 It is considered that there is some potential for tourists and visitors to be dissuaded from visiting the area due to the presence of this wind farm and cumulation with the others. However, past and recent research suggests that there is no discernible relationship between the development of more onshore wind farms and tourism figures. Even though there could be some impact on tourism, it is considered unlikely to be of a level that would outweigh the overall benefit of the proposals set out in EIAR Chapter 18. Consequently, the impacts on the individual tourism receptors identified in the EIAR are considered to be negligible and the impact on the local tourism industry is also predicted to be negligible. There is no information to suggest that the proposal would not result in a net benefit as required by Development Plan Policy. Consequently, the proposal is considered to comply with NPF4 Policy 4 - Natural Places, NPF Policy 11 - Energy and LDP2 Policy Landscape Quality.

#### **Wild Land and Dark Sky Effects**

- 10.98 As previously discussed, the impact on Wild Land and specifically the Merrick WLA is not a significant consideration due to NPF4 Policy 4 part (g), which does not give significant consideration to effects of development outwith wild land areas.
- 10.99 With respect to the UNESCO Biosphere, the EIAR concluded that the Biosphere would not be negatively impacted due to being located outwith the 'core area' of the Biosphere and is supported by the conclusions of the Landscape and Visual Assessment. East Ayrshire Council in its consultation response did not object but expressed disappointment at a lack of consideration for the biosphere designation, with no evidence to suggest how the proposals supports, or otherwise, the principles of the Biosphere designation. Daily Community Council also raised concerns that the proposed development that would potentially have a negative impact on the Biosphere.
- 10.100 LDP2 Policy Dark Skies supports the Galloway Forest Dark Sky Park designation and presumes against development proposals that would adversely affect its 'dark sky' status. The proposed development site lies outwith the Dark Sky Park boundary but is within the 'Transition Zone'. This zone is advisory and intends to protect the night time environment within the Dark Sky park itself from light pollution emanating from this zone.

- 10.101 East Ayrshire Council noted the omission of the Galloway International Dark Sky Park on any of the figures that model lighting impact. East Ayrshire Council consider that Dark Sky Park will be impacted, with figures provided by the applicant showing areas of high intensity lighting in parts of the park. East Ayrshire suggest that further consideration is needed of this impact to mitigate impact on the Merrick Wild Land Area. The consultation response from Dailly Community Council also expressed concern at the potential adverse impact on the Merrick Wild Land Area and Dark Sky Park.
- 10.102 The Dark Sky Lighting Supplementary Guidance requires development in the 'Transition Zone' to help safeguard and enhance the quality of the Dark Sky Park where possible. If turbine lighting is required, it should be demonstrated it would have no detrimental impact on the status of the Dark Sky Park and not impede reasonable astronomic observations.
- 10.103 The proposed development requires lighting on six of the outer proposed wind turbines. A reduced lighting scheme has been agreed with the Civil Aviation Authority. The impact of the lighting is assessed in EIAR Appendix 7.4. The assessment concludes that there would be no significant effects on the Dark Sky Park designation due to no views from the main attractions within the Park boundary. The assessment also notes a minor visual effect from night-time viewpoints from Benyellary, which is representative of views from the summit of the Merrick and related summits. Overall, the assessment concludes there would be no significant effects on the Dark Sky Park designation.
- 10.104 The Landscape and Visual consultation response stated that visible aviation lighting will extend the duration of significant adverse effects on night-time views in close-by views from some residential properties and Core Paths. Mitigation in the form of an Aircraft Detection Lighting System is requested to reduce the duration of significant night-time effects on the dark skies.
- 10.105 Overall, the proposal is not considered to result in a significant adverse effect on the Merrick Wild Land Area or Dark Sky Park, provided the requested mitigation is implemented.

#### **Conclusion on landscape and visual impact**

- 10.106 The Proposed Development would be located in the *Plateau Moorlands with Forestry and Wind Farms* (LCT), a sparsely settled landscape with a simple landform and landcover and a large scale. These are characteristics of this LCT which reduce susceptibility to large wind turbines. This LCT already accommodates a number of operational and consented wind farms and the South Ayrshire Wind Energy Landscape Capacity Study 2018 concluded that there was potential for wind farm development to be accommodated in this landscape. This LCT is not covered by any national or local landscape designations and therefore complies with NPF4 Policy 11 Criteria e and NPF4 Policy 4.
- 10.107 There would be some significant adverse effects on the character of the *Intimate Pastoral Valley* LCT but these would be fairly confined in extent and not of the greatest severity in terms of the magnitude of effect. There would be an adverse effect on some of the special qualities of the *Stinchar Valley* LLA but the integrity of this designated area would not be affected due to the relatively limited visibility of the proposal. It is considered by the Planning Authority that no other LLA would be significantly affected by this proposal.
- 10.108 The proposal has been carefully designed to minimise effects on the sensitive settled Stinchar and Duisk Valleys by setting turbines well back from the upland edges and varying the sizes of the proposed turbines. The Planning Authority considers that the proposal would not have widespread visibility from the most settled and frequented parts of the surrounding landscape with significant adverse effects occurring from relatively small parts of the Stinchar and Duisk Valleys and from the nearby hill summits of Auchensoul and Byne Hill.
- 10.109 A site visit was carried out to assess the potential visual impact of the development on the 7 most significantly affected residential properties (RVAA properties 2, 4, 10, 11, 12, 14 and 15). Subject to mitigation, the proposed development is not considered to breach the Residential Visual Amenity Threshold at any of these properties.

10.110 Overall, whilst the proposal would be seen simultaneously and sequentially with a number of operational, consented and proposed wind farms, it would not raise any significant cumulative landscape and visual effects. Mitigation and enhancement measures covering the following would also help reduce any adverse impact.

- Installation of an Aircraft Detection Lighting System (ADLS) to reduce the duration of significant night-time effects on the appreciation of dark skies in this landscape.
- Provision of a 'landscape scale' mitigation and enhancement plan should be drawn up to address the policies set out in NPF4 Policy 3 Biodiversity, Policy 11 Energy (particularly ix and xii).

**Criteria (e)(iii) – Public access including impact on long distance walking and cycling routes and scenic routes**

10.111 **NPF4** requires consideration of the impact on long distance walking and cycling routes and scenic routes.

10.112 **Part (b) of LDP2 Wind Energy Policy** states:

*"They do not have a significant detrimental visual impact, taking into account views experienced from surrounding residential properties and settlements, public roads and paths, significant public viewpoints, and important recreational assets and tourist attractions."*

10.113 The following LDP2 policies are also applicable:

- **LDP2 Policy: Sustainable Development**
- **LDP2 Policy: Land use and Transport**

10.114 There are no designated recreational routes within the boundary of the site. The applicant considers that the proposal would result in a direct positive impact on informal recreation, as the new and upgraded tracks will improve accessibility within and throughout the site boundary.

10.115 **EIAR Chapter 7 - Landscape and Visual Impact Assessment** concluded that six routes would be significantly affected. The consequent impact of this is considered as negligible by the applicant, given that **EIAR Chapter 18** Socio-Economics also concluded that there is no discernible relationship between the development of wind farms and tourism and recreation.

10.116 Dailly Community Council considers that several main routes such as the Girvan Trails, Whithorn Way and Core Paths SA51 and SA61 would be negatively affected by the proposal. Viewpoints experienced by walkers on the Byne and Auchensoul would also be adversely affected. The proposed network of access tracks will be over areas of deep peat. The community council does not support any peat degradation and will be discussed in a later section of the report.

10.117 As previously mentioned, the Council's Outdoor Access Officer highlighted that the proposal is an opportunity to significantly improve outdoor access and links between other existing wind farms. The upgraded tracks proposed by the applicant within the site would partially achieve this, however there is no suggestion these tracks would link with other operational wind farms. The latter would be difficult to achieve by applicant as it would require agreement from other landowners. The provision of improved signage and other features recommended by the Outdoor Access Officer could be secured via conditions, in order to ensure existing public access routes are protected and enhanced. This is a reasonable request.

10.118 Overall, the development has considered the impact of the development on walking, cycling and scenic routes and would not have a significant negative impact on public access and there will be enhancement through new tracks within the application site and increased signage to other nearby routes. The proposal therefore complies with NPF4 Policy 11 Part (e)(iii).

### **Criteria (e)(iv) – Impacts on aviation and defence interests including seismological recording**

10.119 **NPF4** requires applicants to set out how the project design and mitigation will address impacts on aviation and defence interests including seismological recording.

10.120 **LDP2 Wind Energy Part (h):**

*“They would not adversely affect aviation safety or defence interests, as well as telecommunications and broadcasting installations, ensuring in particular that transmission links are not compromised.”*

10.121 The Wind Energy Planning Guidance 2015 requires developers to demonstrate agreement between them and airport operations that a technological or other mitigation solution is in place which would not threaten the current operation of the airport or expansion aspirations. LDP2 Policy on Wind Energy states that the Council will only support proposals if they do not adversely affect aviation. NPF4 does not require mitigation to be agreed with the aviation authorities or airport operators but does require the proposal to set out how these matters will be addressed or mitigated.

10.122 **EIAR Chapter 15 – Aviation** advises that the proposed development could potentially affect the operation of Glasgow Prestwick Airport (GPA) on the basis that six of the turbines will be visible to the Primary Surveillance Radar and the turbines may impact on Instrument Flight Procedures. No other aviation-related issues have been identified.

10.123 GPA lodged a holding objection on grounds of aviation safety concerns, however they are currently engaged with the developer, with an expectation that a resolution to the aviation safety issues will be achievable. EIAR Chapter 15 confirms that technical solutions are available to mitigate the potential impacts and such matters can be appropriately managed through suitably worded planning conditions.

10.124 At the time of writing the Civil Aviation Authority (CAA) have not responded to Scottish Ministers’ consultation request. NATS Safeguarding and Glasgow Airport did not raise any objection to the proposal. EIAR Chapter 15 confirms that the applicant has proposed visible aviation lighting in accordance with a CAA approved lighting strategy, and details of this are contained in EIAR Appendix 7.4. All 16 proposed wind turbines require non-visible infra-red aviation lighting to satisfy MOD low flying requirements.

10.125 The Defence Infrastructure Organisation (DIO) does not object to the proposal, subject to the conditions set out within their consultation response. The MOD require a condition that the development is fitted with aviation safety lighting, approved by the Scottish Government in conjunction with the CAA and the MOD.

10.126 The MOD also confirmed that the proposed development lies outwith the 50km consultation zones in relation to the Eskdalemuir seismic array. Impacts on seismological recording is therefore not an issue for consideration.

### **Conclusion on aviation and defence interests including seismological recording**

10.127 It is considered that the proposed development has set out how these matters will be addressed and mitigated in accordance with NPF4. The lack of agreed mitigation is not considered a matter which should result in South Ayrshire Council objecting to this application. If the mitigation measures were found to be unachievable in the future then this would be a matter for the ECU to resolve or revert back to the South Ayrshire Council for further comment. A resolution between the applicant and GPA is expected and the only other mitigation required can be controlled through planning conditions. The proposal at this stage is therefore considered to comply with Criteria (e)(iv)

### **Criteria (e)(v) – Impacts on telecommunications and broadcasting installations**

10.128 **NPF4** sets out that it should be set out how the project design and mitigation will address impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised.

10.129 **LDP2 Wind Energy Part (h):**

*“They would not adversely affect aviation safety or defence interests, as well as telecommunications and broadcasting installations, ensuring in particular that transmission links are not compromised.”*

10.130 **EIAR Chapter 17 – Telecommunications** outlines the consultation undertaken with infrastructure and telecommunications network operators. No telecommunication links within the search area have been identified. A utility search identified assets belonging to Scottish Power Energy Networks (SPEN) running along existing tracks within the site boundary. Appropriate management measures will be put in place during construction to ensure that these electricity lines are not affected by the proposed development.

10.131 Consultation responses from the Joint Radio Company and British Telecom raised no issues of concern. In the unlikely event that issues do arise, it is a matter that may be mitigated by appropriate planning conditions.

### **Conclusion on telecommunications and broadcasting**

10.132 Overall, there are no significant impacts on telecommunications and no consultees have raised any significant concerns. The proposal therefore complies with NPF4 Policy 11 part (e)(v).

### **Criteria (e)(vi) – impacts on road traffic and on adjacent trunk roads, including during construction**

10.133 The relevant policies are:

- **NPF4 Policy 13 – Sustainable Transport** - Seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- **LDP2 Policy: Land use and Transport part (b)** - Take appropriate measures to keep any negative effects of road traffic on the environment to a minimum.
- **Wind Energy Planning Policy Guidance part (c)** – aims to protect residential amenity in terms of traffic and transport routes.

10.134 **EIAR Chapter 13 – Access, Traffic and Transport** concludes that there will be no significant traffic effects associated with the proposed development with the incorporation suitable mitigation measures such as a Construction Traffic Management Plan (CTMP) prior to works commencing.

10.135 Construction access to the proposed development will be taken from the A714 corridor. The A714 provides local access between the A75 and A77 trunk roads to the north and south respectively. All three roads will feature construction traffic activity. The applicant advises that development traffic at the peak of construction would result in 100 HGV movements per day and 63 car/LGV movements. The applicant does expect road capacity issues on any of the roads within the study area as a result of the proposed development due to the low background traffic movements, reasonable existing transport links and the implementation of appropriate mitigation.

10.136 The applicant also advises that the Abnormal Indivisible Loads (AIL) access route to the site will be confirmed once the turbine model has been selected. A detailed route review and mitigation is expected to be secured by planning condition. This will also examine access from the trunk roads of the A75 corridor to the site via the A714 from Newton Stewart.

- 10.137 Transport Scotland (TS) is satisfied that the increase in traffic associated with construction of the development will not exceed the threshold present in the IMEA guidelines and no further assessment is required. With respect to the Abnormal Loads Assessment, TS will require a detailed route review and necessary mitigation works to be secured by planning condition, given that the abnormal indivisible load access route for the site will be confirmed once the turbine selection has been confirmed. In conclusion, TS is satisfied with the submitted EIAR and has no objection to the development in terms of environmental impacts on the trunk road network. TS has requested three planning conditions, the first is the submission of the proposed route for any abnormal loads on the trunk road network, to be approved by TS prior to the commencement of development. The second is the approval by TS of any required abnormal load accommodating measures prior to the movement of any abnormal load. The third is the approval by TS of a QA traffic management consultant for any additional sign or temporary traffic control measures prior to the movement of any wind turbine components.
- 10.138 However, Ayrshire Roads Alliance (ARA) as the Local Roads Authority have raised an objection to the proposal. The supporting information states that the AIL access route for the site will be confirmed once the turbine selection has been made, and that the detail could be secured by planning condition. This approach is considered unacceptable to ARA, as this requires an acceptance of the general principle of the development without having any detail on the potential impacts that a preferred AIL route may have on local roads or adopted structure. ARA expected submitted information to be accompanied by AIL route detail, swept path analysis, AIL vehicle loadings, based on turbine components of comparable size to demonstrate the feasibility of the proposals.
- 10.139 Whilst the applicant advised that a detailed route review and the necessary mitigation works would be provided and delivered by way of planning condition, this would necessitate the use of a number of adopted road structures which have never been subjected to the magnitudes of loads that would be associated with AIL trips carrying turbine components.
- 10.140 Based on the submitted information, ARA had no means to accurately assess the feasibility or acceptability of the development proposals on the local road network. Given the scale of uncertainty and risk that this represents, ARA do not consider that it is appropriate to cover such matters by planning conditions.
- 10.141 ARA notes that Transport Scotland are satisfied with an approach which allows the AIL route and potential mitigation measures to be covered by condition, however that is due to the differences in impact levels. The trunk road network is more likely to be able to accommodate AIL movements, at a local road level (in particular in the vicinity of the application site) the local roads are far more constrained, and potential impacts far more pronounced.
- 10.142 ARA also advised on the need for other permits and consents such as Road Opening Permits and a Section 96 Agreement of the Roads Act to allow any extraordinary maintenance costs due to construction traffic be reclaimed by the Roads Authority.
- 10.143 Dumfries and Galloway Council have no objection to the proposal in principle with respect to Transport, subject to the submission and approval of detailed construction and traffic management plans. This forms part of a series of planning conditions recommended by Dumfries and Galloway Council.
- 10.144 East Ayrshire Council are aware of the Access and Transport Study and understand that the main access and transport for the site does not affect East Ayrshire.

- 10.145 Dailly Community Council raised concerns at the suitability of the A714 for AIL and other general and construction traffic. Pinwherry Bridge is also considered to be unsuitable. The number of HGV journeys required as detailed in the EIAR is considered to be significant for the rural community.

#### **Conclusions on road traffic and trunk road impact**

- 10.146 The proposal has the potential to have adverse effects on the local road network with an increase in vehicles including HGVs during the construction phase. The traffic would largely utilise the trunk road network within Dumfries and Galloway and South Ayrshire. Mitigation is proposed for the trunk road to allow for wind turbine component deliveries and these would be agreed with Transport Scotland. This is considered to be acceptable from a trunk road perspective.
- 10.147 However, ARA advise that the lack of AIL access route assessment for the site is considered unacceptable. Without having any detail on the potential impacts that a preferred AIL route may have on local roads or adopted structures. ARA have had no means to fully assess the proposed developments impact on the local road network. In light of this, the proposal is not considered to comply with Policy 11 of NPF4 and LDP2 Policy: Land Use and Transport.

Further information was requested by the Planning Service on several occasions, giving the applicant the opportunity to address the concerns of the Ayrshire Roads Alliance. However, this further information was not received until 29<sup>th</sup> April 2025, leaving insufficient time for review and assessment before finalising this report. As the Council must respond to this consultation by 16 May 2025, with no scope for extension, the further information submission has not been taken into account.

#### **Criteria (e)(vii) – impacts on historic environment**

- 10.148 The relevant policies are:

- **NPF4 Policy 7** - aims to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.
- **LDP2 Policy: Historic Environment** - We will protect, preserve and, where appropriate, conserve and / or enhance South Ayrshire's historic environment.
- **LDP2 Policy: Archaeology** - Development proposals that do not safeguard archaeological sites or resources in situ will not be supported unless it is demonstrated to the satisfaction of the Council that the benefit of the proposal outweighs the archaeological value of the site.

- 10.149 **EIAR Chapter 8 - Cultural Heritage** assesses potential direct and indirect physical effects and setting effects on heritage assets during construction, operation, and decommissioning. A physical impact on one known asset of low importance was identified. The proposed AIL delivery track where it leaves Main Street would impact the remains of Pinwherry Tollhouse. This asset is non-designated, and the effect would not be significant. No consultees raised any concern with respect to this impact. The applicant will agree a Written Scheme of Investigation (WSI) prior to construction works to mitigate any impacts on unknown archaeological remains within the site. The EIAR identified residual effects of minor significance of three heritage assets including the Dinvin Motte SM, Bargain Hill Fort, and Cairn Hill Cairn. The latter two assets are non-designated currently but considered to be of probable schedulable quality. On decommissioning, these non-significant operational effects would be reversed. The assessment did not identify any significant cumulative impacts.

- 10.150 HES have no objection to the application. They are satisfied that the methodology used in the assessment is appropriate. The impacts on the integrity of the setting of the scheduled monuments in the vicinity would not be significantly adverse and would not raise issues of national interest.

- 10.151 The response from HES focuses on the impact on Divin Motte. It is generally satisfied from the contents of the EIAR Chapter that the effect of the proposed development on the setting of the castle will not be significant. The proposed development would not disrupt key views or other key factors in the setting of the scheduled monument. HES notes that level of impact may have been underestimated for three of the turbines (T14, T15 and T16), however it is satisfied these turbines would not backdrop the motte which would remain the most prominent feature in this view. HES is content that there will not be significant cumulative effects on the setting of the scheduled monument.
- 10.152 The Council's Archaeological Advisor, West of Scotland Archaeology Service (WoSAS) agree with HES comments regarding the setting of designated sites within their remit. The effect on the setting of Divin Motte SAM is considered to have been slightly underestimated. WOSAS do not object to the proposal however and will agree a programme of mitigation to offset physical applicants with the applicant. A planning condition has been proposed to address this.
- 10.153 The Council's Conservation Planner (Built Heritage) was consulted and raised no objection, on the basis that the proposals will not have a detrimental impact on the character, appearance or setting of any designated or undesignated historic assets in the locale of the proposed windfarm.

#### **Conclusion on historic environment impact**

- 10.154 Overall, taking into the responses from HES, WoSAS and the Council's Conservation Planner it is considered the proposed development does not raise any significant issues with respect to the historic environment and complies with policy 11 part (e)(vii).

#### **Criteria (e)(viii) – Effects on hydrology, the water environment and flood risk**

- 10.155 The relevant policies are:

- **NPF4 Policy 22: Flood risk and water management** - seeks to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.
- **LDP2 Policy: Water Environment** - We support the objectives of the Water Framework Directive (2000/60/EC). We will only allow development that meets these objectives and shows that: a. It will protect, and where possible, improve the water environment; b. It will not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water); and c. It will not harm the biodiversity of the water environment. d. It seeks to avoid (or remove) instances of construction works and structures in and around the water environment; e. It provides an appropriately sized buffer strip between the development and a water course
- **LDP2 Policy: Flood and Development** - Development should avoid areas which are likely to be affected by flooding or if the development would increase the likelihood of flooding elsewhere. We will assess development proposals against the Scottish Environmental Protection Agency's (SEPA) publication 'Flood Risk and Land use Vulnerability Guidance' (2018), or subsequent updates.

- 10.156 The intent of the relevant NPF4 and LDP2 Policies is to ensure the water environment and ecological features are protected and improved where possible and flood risk is understood and managed to accord with SEPA's advice. Furthermore, the policies require that risks to others is not exacerbated as a result of new development in flood prone areas.
- 10.157 **EIAR Chapter 11 – Geology, Hydrology and Hydrogeology** considers the potential impacts of the proposed development upon geology, hydrology and hydrogeology. It is accompanied by associated appendices addressing peat landslide risk, peat management, ground dependent terrestrial ecosystems (GWDTE), private water supplies and watercourse crossing. A comprehensive suite of embedded mitigation and best practice measures has been incorporated into the design of the proposed development. Key features that had a considerable influence on site layout included peat areas and peat depth, water courses and waterbodies, potential GWDTE and private water supplies.

- 10.158 EIAR Chapter 11 considers that subject to the successful implementation of the mitigation measures identified, no likely significant adverse effects relating to the proposed development in isolation are identified. No cumulative impacts were also identified. Subject to adherence to best practice construction methods to be set out in a Construction Environmental Management Plan (CEMP) and a suitable site-wide drainage strategy, the proposed development is considered to not be at risk from flooding, nor would it lead to increased flood risk elsewhere during the construction, operational or decommissioning periods.
- 10.159 Scottish Water has no objection to the proposal but noted the presence of live infrastructure within proximity of the development area. Any conflicts with identified assets will be subject to the restrictions on proximity of construction. There are no Scottish Water drinking catchments or abstraction sources in the area that may be affected by the proposed development.
- 10.160 Daily Community Council have raised concerns that the proposal will have a negative impact on the local hydrological environment. Felling of the commercial forestry may result in contamination of the River Stinchar and Muck. Concern was also raised in respect of the potential for contamination of private water supplies due to the amount of reinforced concrete required for the turbine bases.
- 10.161 The Council's Environmental Health Service also did not raise an objection but provided a series of planning conditions to minimise impacts on groundwater quality and hydrology. These conditions including the submission of a water management plan covering water control and drainage, a site-specific hydrological report and an Emergency Action Plan for impacts on private water supplies.

#### **Conclusion on hydrology, water and flood risk**

- 10.162 Overall, the proposal would not have any significant effects on hydrology or the water environment and the development would not be at significant risk of flooding or increase flood risk elsewhere. Planning conditions controls via the CEMP will avoid any significant pollution on the water environment during the construction process. The proposal is therefore considered to comply with Policy 11 Criteria (e)(viii).

#### **Criteria (e)(ix) biodiversity including impacts on birds**

- 10.163 The relevant policies are:
- **NPF4 Policy 3: Biodiversity** - highlights the importance of nature protection, restoration and securing biodiversity enhancements to reverse biodiversity loss, deliver positive effects from development and strengthen nature networks
  - **LDP2 Policy: Natural Heritage** - Planning Permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation. Criterion (f) requires development to not have an unacceptably detrimental effect upon natural heritage, including wild land, birds and carbon rich soils.
- 10.164 The site does not form part of any statutory designated site for nature conservation with qualifying ecological interests. The nearest such designation is the Lendalfoot Hills Complex Special Area of Conservation (SAC) and Aldons Hill Site of Special Scientific Interest (SSSI) which are located approximately 1.65km to the west of the site. In terms of non-statutory local nature conservation designations, the Muck Water Provisional Local Wildlife Site (PLWS) intersects the southern site boundary while the River Stinchar (Minuntion to Pingerrach Burn) PLWS adjoins part of the northern site boundary.
- 10.165 **EIAR Chapters 9 and 10 – Ornithology and Terrestrial Ecology** considers that following mitigation such as the appointment of an Ecological Clerk of Works (ECoW), pre-construction surveys, preparation of a CEMP and habitat enhancement post construction, there would be no significant adverse residual effects on any identified important ecological and ornithological receptors during construction.

- 10.166 The applicant proposes to develop a Habitat Management Plan (HMP) in consultation with relevant stakeholders and landowners and as a condition for the proposed development. An outline HMP has been prepared and is presented within EIAR Appendix 10.5. The three key aims of the HMP are to enhance moorland habitats, fisheries habitats and opportunities for nesting and foraging birds.
- 10.167 Following consultation with NatureScot, potential effects on qualifying gull species associated with the Ailsa Craig SPA/SSSI were initially included in the assessment as a precaution. These were subsequently scoped out following further assessment. Notwithstanding, information to inform a Habitats Regulation Appraisal (HRA) of the proposed development in relation to the Ailsa Craig SPA is provided in EIAR Section 9.10.
- 10.168 The consultation response from NatureScot provides a detailed appraisal of the impacts of the proposal and advice. Due to the adoption of NPF4, NatureScot have not provided advice on the landscape and visual effects of this proposal. Considering International and National Natural Heritage Designations, the proposal is unlikely to have a significant effect on the qualifying interests of the Ailsa Craig SPA and SSSI and therefore an appropriate assessment is not required.
- 10.169 With respect to European Protected Species, bat activity has been recorded across the site. NatureScot consider the site is more likely to be considered a medium risk of impacting bats compared to low/medium risk as indicated in the EIA Report. NatureScot therefore believes the EIA Report has underestimated the potential impacts on bats and the significant habitat change that will result from the proposed development. Mitigating the potential effects of the development on bats is therefore a key requirement for this development. A series of mitigation measures are proposed including a 50m buffer between the turbines and potential bat habitats, feathered turbinised blades and 3 years-post construction monitoring to determine the efficiency of the mitigation.
- 10.170 Based on the findings of surveys carried out to date, there is currently no requirement for any species licenses to be obtained prior to commencement of development. Given the mobile nature of species and likely time elapsed between the survey work reported in the EIA Report and commencement of any development, pre-construction surveys for protected terrestrial mammals is welcomed.
- 10.171 With respect to fish and fresh water pearl mussels, the applicant has identified potential indirect impacts to fish through pollution or sedimentation resulting from construction works and commits to implementing a pollution prevention plan and sedimentation control measures, alongside a water quality and fish monitoring plan. NatureScot is content these measures will minimise any potential impact on these species.
- 10.172 Further explicit justification for excluding golden plover birds from further consideration is required or alternatively a collision risk assessment and cumulative impact assessment should be carried out. Pre-construction surveys for birds should also be carried out immediately prior to and during construction, rather than within three years prior to commencement as suggested in the EIA Report.
- 10.173 NatureScot also advise that low density native broadleaf planting should be considered in preference to conifer planting to enhance the ability of the site to act as a key component of a nature network. The 16 turbine keyhole areas also represent a good opportunity for undertaking habitat restoration in these areas.
- 10.174 SAC's appointed ecologist confirmed that the respective EIA Chapters 9 on Ornithology and 10 on Terrestrial Ecology are detailed and provide sufficient information.

## Chapter 9: Ornithology

- 10.175 In terms of impact on Goshawk in the area a predicted upper potential mortality rate of 2.64% is noted. It is recommended that the potential collision mortality risk posed to Goshawk is monitored within the Site, via Carcass Search Methodology, as detailed within the Guidance on Methods for Monitoring Bird Populations at Onshore Wind Farms (NatureScot, 2009).
- 10.176 The Carcass Search Methodology (along with other post-consent monitoring commitments) should be issued to statutory stakeholders for consultation/agreement prior to the production of the final monitoring document. The production of a post-consent monitoring plan (including carcass searches) could be delivered by way of a planning condition.

## Chapter 10: Terrestrial Ecology

- 10.177 The assessment is reasonable, however there were some limitations to the bat surveys which require further explanation as to how this has been accounted for in the analysis. The ecologist agrees with NatureScot's response that the conclusions around bat risk may not be sufficiently precautionary.
- 10.178 Losses of valuable habitats appear relatively minor in extent, and the Outline Habitat Management Plan (OHMP) includes habitat restoration and enhancement which should be adhered to.
- 10.179 There is acceptable information on proposed mitigation measures to align with legislation for protected species including pre-construction surveys, and species protection plans as part of a Construction Environment Management Plan (CEMP) which would need to be subject to a pre-commencement of development planning condition.
- 10.180 SEPA advised the proposed access route will cross an area of high potential Ground Water Dependent Terrestrial Ecosystems (GWDTE) dependency and two with high/moderate potential dependency. SEPA would prefer the site access to be achieved without intersecting any areas of potential GWDTEs and question why this cannot be achieved via the public road that runs past Bellamore and the estate track that access the site from the south. Mitigation is required if the proposed route is shown to be the only viable means of ensuring access to the site. A similar issue is raised with respect to the same access route, which is within a 50m buffer of a watercourse that runs down into Pinwherry. SEPA again question why the same access route cannot be used to avoid these impacts.
- 10.181 The Ayrshire Rivers Trust (ART) and the River Stinchar District Salmon Fishery Board advise that the proposed development should have appropriate risk assessments, relevant monitoring programmes and a suitable mitigation strategy in place to protect fish, invertebrates and fisheries before any onsite work commences. This is to ensure best practice and presents an opportunity to demonstrate work has been carried out to the highest environmental standards. Monitoring should include before, during and after surveys to understand and quantify and impact, if any, on the habitat or fish populations. ART also advise note that the period between November and May is especially sensitive in a watercourse context due to fish spawning.
- 10.182 GWDTE Survey indicates other elements of infrastructure will be located within the 250m buffer required for exactions over 1m deep. Detailed assessment and mitigation of these elements is required.

## **Conclusion on biodiversity**

- 10.183 The proposal would not have any significant effects on overall biodiversity of the area and the development would not be at significant risk to any nearby ecological designations or protected species. Planning condition controls via the CEMP for pre-construction surveys and species protection plans will help avoid any significant impact on the ecological environment during the construction process. The proposal is therefore considered to comply with NPF4 Policy 11 Criteria (e)(vix), NPF4 Policy 3 – Biodiversity and LDP2 Policy: Natural Heritage.

## **Criteria (e)(x) impacts on trees, woods and forests**

10.184 The relevant policies are:

- **NPF4 Policy 6: Forestry, woodland and trees** – aims to protect and expand forests, woodland and trees
- **LDP2 Policy: Preserving Trees** - When assessing proposals for development that might involve loss of, or work to trees, we will consider how much it would affect the local area and will take measures to protect trees, especially those covered by a provisional or confirmed Tree Preservation Order. Ancient and veteran trees of high nature conservation and landscape value will be protected.
- **LDP2 Policy: Woodland and Forestry** - We will support proposals for woodland and forestry that are: a. Consistent with the objectives and main actions of the Ayrshire and Arran Woodland Strategy; and b. Sympathetic to the environmental (including landscape and visual impacts), nature and wildlife interests of the area, and, wherever appropriate, provide recreational opportunities for the public. Relevant advice contained within The Scottish Government's Policy on Control of Woodland Removal will be taken into account when determining planning applications.

10.185 **EIAR Chapter 12 – Forestry** quantifies the extent of permanent and temporary felling and compensatory planting requirements. 356.2HA of felling would be required in advance of constructing the proposed development. This is a combination of keyholding for development infrastructure and clear felling back to management boundaries. Of the 356.2ha cleared, 284.1ha will be replanted. The species composition of the forest would change as a result of the proposed forestry replanting. The area of conifer woodland would decrease by 73.9ha. The area of unplanted ground would increase and as a result there would be a net loss of 72.1ha of woodland area.

10.186 Dailly Community Council have expressed disappointment and that the overall loss of woodland and subsequent carbon loss.

10.187 The applicant expects the extent, location and composition of the compensatory planting to be agreed with Scottish Forestry prior to commencement of development, via planning condition. Scottish Forestry advised that an excess area of 250ha of felled woodland is proposed to facilitate the development. Scottish Forestry have requested that the applicant rework the forestry chapter of the EIA to address this. The ECU has also issued an instruction to the applicant to provide the information requested by Scottish Forestry. This information will be assessed by the ECU and falls within their determination. The information when received may be deemed supplementary environmental information and may formally request feedback from consultees including South Ayrshire Council.

### **Conclusion on trees, woods and forest impact**

10.188 With 356.2ha proposed to be cleared, and 284.1ha to be replanted, the area of conifer woodland would decrease by 73.9ha. However, with area of unplanted ground proposed to woodland a net loss of 72.1ha of woodland is predicted. With further information requested to be provided by the applicant, the ECU as the determining authority will determine the proposals compliance with NPF4 Policy 11 - Energy Criteria (e)(x) impacts on trees, woods and forests; NPF4 Policy 6 - Forestry, woodland and trees; LDP2 Policies: Preserving Trees and Woodland and Forestry. The ECU will also determine the proposals compliance with Scottish Forestry's Policy on Control of Woodland Removal. The further information when submitted by the applicant may require further consultation with South Ayrshire Council.

**Criteria (e)(xi) – proposals for the decommissioning of developments, including ancillary infrastructure and site restoration**

- 10.189 The applicant has provided limited detail on the decommissioning of the development and proposed site restoration. The applicant proposed that this matter would be dealt with in the form of planning conditions, to be agreed with the ECU and South Ayrshire Council. Chapter 4 of the EIAR 'Description of the Proposed Development' provides some detail with respect to this matter.
- 10.190 The applicant has committed to a site restoration plan for approval by South Ayrshire Council before construction begins. The key elements will include the reinstatement of the borrow pit working areas, the construction compounds, the laydown areas, site tracks and cable trenches.
- 10.191 With respect to decommissioning, if it is decided to decommission the proposed development, this will result in the removal of all the turbine components, transformers, the substation, ESS facility, compound fences and associated buildings. A Site Decommissioning plan will set out environmental protection measures and restoration principles which will be implemented. This plan will be agreed with South Ayrshire Council
- 10.192 Access tracks where required for forestry use and underground cables will be left in place and foundations to a depth of 0.5m below ground level to avoid environmental effects from removal. Crane hardstanding's and sections of access track no longer required will be removed or partially removed and restored in accordance with industry guidance.
- 10.193 Traffic and noise produced during decommissioning of the proposed development is likely to be of a similar nature to that during construction, although the duration of decommissioning will be shorter than that of construction, and traffic volumes would be lower. Any legislation, guidance or best practice relevant at the time of decommissioning would be complied with.
- 10.194 Details of the decommissioning would be agreed with SAC at a time specified in conditions and would set out details of the removal of the proposed Development, the removal of all components for reuse, recycling or disposal, the treatment of ground surfaces, the management and timing of the works and environment management provisions.

**Conclusion on decommissioning and restoration**

- 10.195 Overall, it is not considered there would be any unacceptable impacts associated with the decommissioning period. Site restoration and decommissioning plans would be implemented including the measures in place to safeguard or guarantee the effective implementation of those plans. This will be controlled via planning conditions in agreement with the ECU and SAC. The proposal therefore complies with NPF4 Policy 11 Part (e)(xi)

**Criteria (e)(xii) - the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans**

- 10.196 Under this criterion, NPF4 Looks to ensure that the site restoration plans are of high quality and include any measures or guarantees of the financial viability of the restoration proposals.
- 10.197 As previously discussed, full details of the site restoration has not yet been submitted and will need to be agreed with the Council. Planning conditions and agreement by the Council will ensure that the restoration plan is high quality.
- 10.198 The proposal is therefore considered to comply with Policy 11 part (e)(xii).

### **Criteria (e)(xiii) – Cumulative impacts**

- 10.199 The cumulative impact of the proposal has been considered throughout each section of the report and the individual assessment criteria within Policy 11 of NPF4. The potential and significance of cumulative impacts have also been considered in each chapter of the applicant's EIAR.
- 10.200 The applicant has identified significant residual landscape and visual effects within the Landscape and Visual assessment, when the proposal is considered in combination with other, operational, consented and proposed wind farms. It concludes that the applicant has taken reasonable steps to mitigate and address the cumulative effects through the iterative design process. Subject to careful siting and design and adherence to best practice measures, the applicant has not identified any other residual significant cumulative effects within the EIAR.
- 10.201 At the time of the Knockodhar S36 application submission, the proposed Clauchrie Wind Farm was a significant consideration for the landscape and visual assessment and was raised in several consultee response. This is due to the proposal being sited adjacent to the Knockodhar development and the potential for cumulative impact. The Clauchrie windfarm application was refused on 31<sup>st</sup> August 2023, therefore it reduces the overall cumulative impact of the Knockodhar proposal, especially with respect to Landscape and Visual effects. Further the Carrick, Craiginmoddie and Knockcronal windfarm applications are being decided at a public local inquiry. Therefore, the cumulative impact may vary depending on the outcome of this.

### **Conclusion on cumulative impact**

- 10.202 This proposal would be seen sequentially with the consented Arecleoch extension wind farm in views from the A714 and B734 in the lower Stinchar valley. However, the distance between these two developments is such that significant cumulative landscape and visual effects would not arise.
- 10.203 This proposal would principally be seen simultaneously and sequentially with the proposed Carrick, Craiginmoddie and Knockcronal wind farms in views from the upper Stinchar Valley, from nearby hills accessed by walkers and from parts of the Barr Trails. It should be noted however that the Clauchrie Wind Farm proposal has been refused and therefore will not contribute to cumulative impacts.
- 10.204 It is considered that this proposal would make a minor contribution to cumulative effects experienced from the High Carrick Hills when compared to greater prominence of the Carrick, Craiginmoddie, Knockcronal and Sclenteuch wind farm proposals.

## 11 Other Policy Considerations

### Soils and peat

- a. **NPF4 Policy 5** aims to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development.
- b. Development on peatland, carbon rich soils and priority peatland can be acceptable where the development is for generation of green energy and aids the reduction in greenhouse gases. Part (d) of Policy 5 requires applicants to carry out a detailed site specific assessment and submit a peat management plan to avoid adverse impacts and minimise negative effects through best practice.
- c. As previously discussed in the site description section, Peat probing surveys were undertaken by the applicant in September 2020 and in June-July 2022. The interpolated peat depth map (EIA Report Appendix 11.2) indicates that approximately one third of the site contains peat depths <0.5m, principally located in the far west, centre, north-east and the south. In between these areas, the site contains five principal bogs where deep peats >1m were encountered. These areas are located in the south-west, centre, north and north-east of the site and at Glake Plantation along the new access track from the west. In addition, there are numerous smaller deep peat bogs scattered throughout the site, some with peat depths >3m.
- d. The applicant has provided a peat management plan (PMP) in accordance with the requirements of Policy 5. A site-specific Peat Landslide Risk Assessment (PLRA) has also been prepared to inform the proposed development design.
- e. Daily Community Council have raised concern about the loss of peat and consider that there should be no peat degradation as a result of the proposed development.
- f. SEPA have welcomed the fact its previous comments have been taken on board from the scoping stage but still have concerns with the proposed site layout. Various elements of the proposed development infrastructure will be located on areas of deep peat including five turbines, hardstandings and the temporary access compound. Significant additional development will be located on peat with a depth of 0.5m to 1m.
- g. SEPA have advised that the PMP is outdated due to being issued in December 2022, prior the adoption of NPF4. SEPA require the PMP to be updated to demonstrate compliance with Policy 5 of NPF4. Any development on deep peat, except for floating tracks, will need to demonstrate that there is overriding locational requirement for the element of the proposal to be in that location. Likewise, all development on 0.5m to 1m of peat needs to demonstrate why it cannot be located elsewhere. This is likely to result in amendments to the site layout. Additional survey points around the borrow pits will be required to get a better understanding of peat depths across the entire area of proposed excavation. The ECU has instructed the applicant to submit information to deal with the issue raised by SEPA and this is awaited. The ECU will determine the proposals compliance with Scottish Forestry's Policy on Control of Woodland Removal. The further information when submitted by the applicant may require further consultation with South Ayrshire Council.
- h. NatureScot considered that the impacts on peatland habitats as a result of the proposal are unlikely to be of national interest. The applicant has generally demonstrated the avoidance of impacts on peatland habitats. A significant level of enhancement is also required in accordance with NPF4 Policy 3b. The provisional land management and mitigation proposed in the EIA Report Technical Appendix 10.5 is broadly supported by NatureScot in this respect. Measures identified in the EIA Report to minimise impacts on peatland habitats should be formalised through the submission of a finalised Construction Environmental Management Plan, Peat Management Plan & Peat Landslide Risk Assessment for approval by the Planning Authority prior to development commencing. The CEMP should also contain full details of the measures required to restore habitats on completion of construction.

- i. Ironside Farrar have technically assessed the Peat Landslide Hazard and Risk Assessment(s) (PLHRAs) submitted by the applicant. Peat landslide risk is considered to be negligible to low within the PLHRA for the majority of the proposed development therefore only generic mitigation and good practice measures have been provided. Ironside Farrar consider this mitigation to be acceptable. Some areas of the site have not been probed in line with available guidance. The applicant's PLHRA concluded that the proposed development is entirely within areas of negligible to low risk of peat landslide failure, however Ironside Farrar noted that the hardstanding areas associated with Turbines 13 and 4 appear to intersect with areas of moderate risk, which needs to be assessed further. Specific mitigation will be required if Turbines 13 and 4 are confirmed to be in moderate risk areas. Ironside Farrar advise that the PLHRA requires minor revisions and has provided a list of recommendations requiring clarification from the developer.

#### **Conclusion on soil and peat**

- 11.2 Whilst SEPA are seeking an updated Peat Management Plan to be submitted to the ECU neither NatureScot nor the Scottish Governments Advisor on peat landside risk no issues have been raised in terms of potential significant adverse impact on soil and peat in particular.
- 11.3 Overall, it is considered that the proposal complies with NPF4 Policy 5 as the proposal seeks to protect carbon-rich soils and minimise disturbance to soils from the proposed development.

#### **Socio-Economic Impact including Community Wealth Building**

- 11.4 The relevant policies are:
- **NPF4 Policy 11 (c) - Energy** states that "development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated benefits and supply chain opportunities".
  - **NPF4 Policy 25 – Community Wealth Building** states that "development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities will be supported. This could include for example improving community resilience and reducing inequalities; increasing spending within communities; ensuring the use of local supply chains and services; local job creation; supporting new community led proposals, including creation of new local firms and enabling community led ownership of buildings and assets".
- 11.5 **EIAR Chapter 18 – Socio-Economics** and the Planning Statement considers the socio-economic impact of the proposed development of Knockodhar Wind Farm. The construction phase is predicted to support around 28 net additional construction jobs during the construction period of 20 months. The construction phase employment impact is anticipated to generate a minor beneficial effect.
- 11.6 The impact of the operational phase of the proposed development is predicted to have a beneficial effect. It is predicted that the equivalent of six full time jobs will be supported in South Ayrshire during the operational phase of 35 years. This was assessed to be a minor beneficial effect.
- 11.7 It is estimated that the decommissioning phase of 6 months would generate the equivalent of four job years' of employment for local residents in South Ayrshire. This equates to eight full-time jobs for the duration of the decommissioning period.
- 11.8 The business rates revenue over the lifetime of the proposed development is estimated to be around £24m. The proposed CBF is expected to generate up to £16.3m over the lifetime of the proposed development. This is assessed as being of minor beneficial effect.
- 11.9 The proposed development's impact on the local tourism industry is expected to be negligible. Therefore, the proposed development's economic and employment effect relating to tourism is assessed to be negligible.

- 11.10 Cumulative wind farm developments within a 20km radius of the proposed development were considered relevant to the assessment. In total, 21 cumulative wind farms were identified. The economic impacts of the cumulative developments were investigated. It is considered likely that the socio-economic impacts of the cumulative developments would be similar to those assessed for the proposed development. Therefore, the delivery of the cumulative developments is anticipated to generate beneficial economic effects.
- 11.11 In relation to Policy 25 in particular, it is recognised that Community Wealth Building (CWB) does not just encompass the economic impact of a development in terms of jobs created; increased expenditure in the region (as some of it leaves the area) plus the impact of a Community Benefit Fund (CBF).
- 11.12 CWB is an alternative approach that looks to limit the leakage of wealth out of the local area and that The Scottish Government has adopted the following internationally recognised 5 Pillar approach as part of its National Strategy for Economic Transformation (NSET).
1. **Inclusive Ownership** – develop more local and inclusive enterprises
  2. **Workforce** – Increase fair work and local labour markets that benefit local communities
  3. **Finance** – Ensure investment work for local people, communities and businesses
  4. **Land & property** – Growth of social, ecological and economic opportunities for local communities from land and property assets;
  5. **Spending** – maximise community and business benefits with procurement and commissioning including shorter supply chains

#### **Inclusive Ownership**

- 11.13 Implementing the CBF will see £16.3m funding made available to the local community over the 35-year lifetime of the project. This funding will be used to fund local priorities which could address inequalities, the provision of local services/amenities and a range of other issues. This funding will enable the community to take ownership and make investment decisions for the betterment of the locality and region.

#### **Workforce**

- 11.14 The proposed development is predicted to create approximately 213 temporary construction jobs within South Ayrshire over the 20-month construction phase.
- 11.15 The project lifetime is 35-years and over which there is likely to be maintenance and site visits by technicians (to the infrastructure and turbines). It is anticipated that the operation and maintenance of the proposed development could support up to 28 Person Year Equivalent (PYE) jobs across the UK in total with 6 based in South Ayrshire.

#### **Finance**

- 11.16 Direct funding opportunities for community projects through the CBF will provide accessible finance for communities based in the region. This could support start up and grow enterprises and contribute to a sustainable local economy.

#### **Land & property**

- 11.17 Direct funding opportunities for community projects through the CBF are set out within the submission and they can be used to redirect benefits back into the local economy and this includes local development projects that will benefit the wider community.

## **Spending**

- 11.18 The proposed development is predicted to generate £12m net GVA within the area over the construction phase. It is predicted that the operation phase and maintenance of the proposed development could support up to £2,337,142 GVA.
- 11.19 Proposals for the direct funding of community projects through a the CBF will redirect benefits back into the local economy.

## **Conclusion on Socio-Economic Impact including Community Wealth Building**

- 11.20 Overall, the socio-economic impact of the proposal during both the construction and operational phases is considered to be beneficial. To ensure compliance with NPF4 Policy 25, that benefits from the scheme are retained and redirected back into the local economy as much as possible during construction and operation, will require a Community Development Strategy (CDS) to be agreed prior to the commencement of development. This should include a commitment from the Applicant to use local supply chains wherever possible. The CDS should also commit that community benefit clauses will be considered in any procurement contracts wherever there is an appropriate legal basis to do so.

## **12. Overall S36 Consultation Conclusion**

- 12.1 In conclusion, having considered the applicant's EIA Report and supporting documentation, the identified benefits of the scheme, the consultation responses received and having balanced the developers' interest against the wider community interest it is recommended that a position of objection be submitted to the Scottish Government. The uncertainty of the proposed developments impact on the local road network and adopted structures is considered to be of sufficient material consideration to warrant an objection by the Council.

## **Recommendation**

- 12.2 It is recommended that an objection be raised to the proposed Knockodhar Wind Farm development. Should the Energy Consents Unit and Scottish Ministers be minded to grant consent as determining authority, the following list are the subject areas that South Ayrshire Council recommend should form S36 and deemed planning conditions.
- All conditions requested by statutory consultees
  - All mitigation proposed within the EIA Report, its appendices and the Planning Statement
  - Standard noise conditions for wind turbines
  - Condition covering shadow flicker mitigation should complaint(s) be received
  - Condition requiring a Construction Environmental Management Plan (CEMP) and including a Construction Management Plan (CMP) and Construction Traffic Management Plan (CTMP)
  - Condition requiring a Water Management Plan (can be contained in CEMP)
  - Condition requiring a Dust Management Plan (can be contained in CEMP)
  - Condition requiring review of private water supply sources (can be contained in CEMP)
  - Condition requiring water quality and quantity assessment to properties in area (can be contained in CEMP)
  - Condition requiring an Emergency Action Plan (can be contained in CEMP)
  - Condition requiring installation of Aircraft Detection Lighting System (ADLS)
  - Condition requiring a Landscape Mitigation and Enhancement Plan
  - Condition requiring an Archaeological Written Scheme of Investigation (WSI)
  - Condition requiring access track provision and signpost improvements
  - Condition requiring Staff Travel Plan
  - Pre-commencement updated ecological surveys including any Species Protection Plans
  - Collision monitoring of protected bird species
  - Pre-commencement surveys in any areas where micro-siting is required
  - Details of compensatory tree planting including net gain.
  - Community development strategy
  - Decommissioning, Restoration and Aftercare Plan including financial guarantee

### **13. Background Papers**

1. Application form plans and supporting documentation including the Planning Statement and the Environmental Impact Assessment Report and supplementary appendices and figures.
2. Consultation responses to the ECU
3. Representations to the ECU
4. National Planning Framework (NPF) 4 - February 2023
5. Historic Environment Scotland Policy Statement
6. Planning Advice Note 2/2011 'Planning and Archaeology'
7. South Ayrshire Council Local Development Plan 2 - August 2022
8. South Ayrshire Council Planning Policy Guidance: Wind Energy
9. South Ayrshire Landscape Wind Capacity Study 2018
10. South Ayrshire Local Landscape Designations Review 2018
11. South Ayrshire Planning Policy Guidance: Dark Sky Lighting
12. SNH Guidance – Siting and Design of Windfarms 2017
13. Residential Visual Amenity Assessment Technical Guidance Note 2/19 (Landscape Institute)
14. Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation: Nature Scot Et al (2021).
15. Scottish Government Control of Woodland Removal Policy.

### **14. Person to Contact:**

Mrs Erin Goldie, Coordinator (Place Planning) - 01292 616 367

## REGULATORY PANEL: 5 FEBRUARY 2026

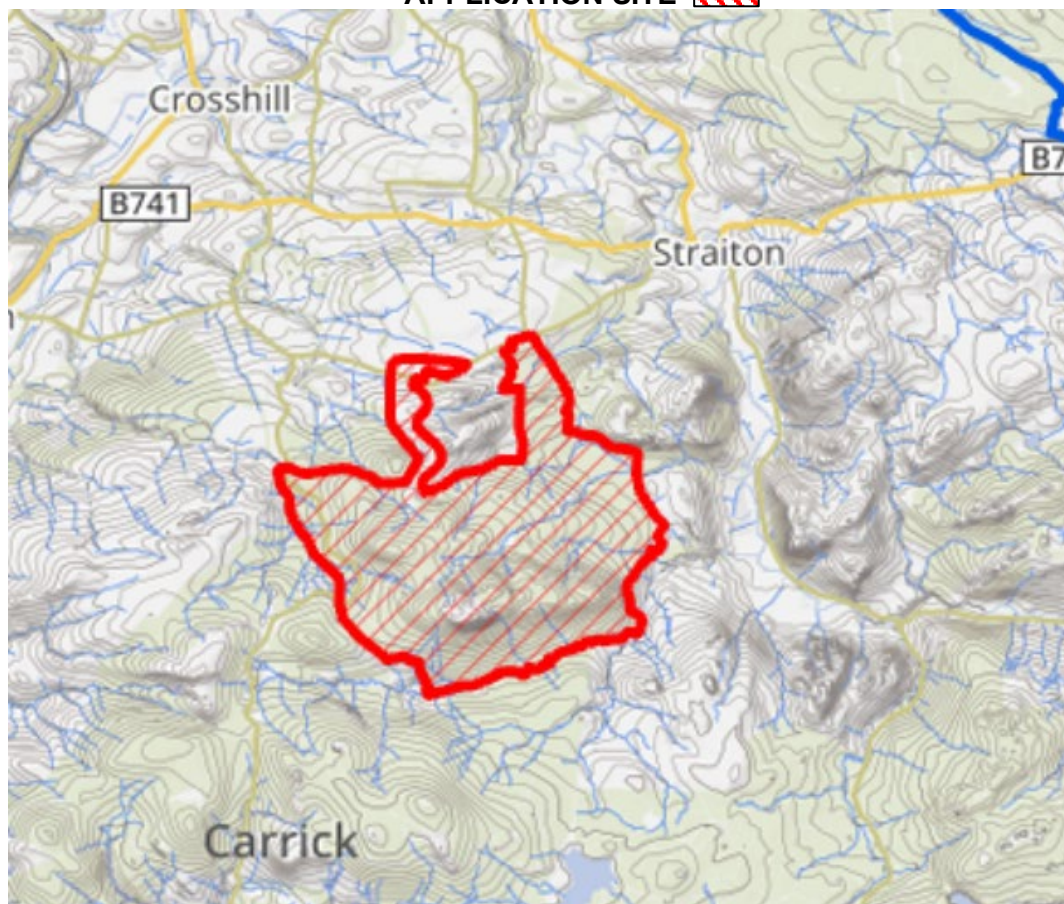
### REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

25/00334/DEEM

### PROPOSED WIND FARM U27 FROM B741 JUNCTION AT CLOYNTIE TO U66 JUNCTION AT SOUTH BALLOCH MAYBOLE SOUTH AYRSHIRE

#### Location Plan

APPLICATION SITE 



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

[\(Application Summary\)](#)

#### Summary

The proposal comprises the construction and operation of 10 wind turbines, an energy storage system, substation and compound, access, and associated infrastructure. Each turbine will be three bladed with a horizontal axis with a blade tip height of a maximum of 200m. Each turbine will have an installed capacity of approximately 6.2MW. The overall anticipated generating capacity of the wind farm would be approximately 92MW.

The site extends to approximately 859 hectares (ha) and is located approximately 2.2km south-west of the village of Straiton. The site currently consists largely of commercial plantation forestry. Towards the north, at the location of proposed Access Option 1 to the U068, the land use is open agricultural land.

There are other operational and proposed wind farms in the vicinity of the site. The closest operational wind farm is Dersalloch, approximately 4km to the north of the site, comprising 23 turbines 125m to tip.

The site is not subject to any national landscape designations. The Water of Girvan LLA overlaps with most of the site, where 9 of the 10 turbines are proposed to be situated.

The site does not form part of any statutory designated site for nature conservation with qualifying ecological interests. The nearest such designation is the Auchalton Site of Special Scientific Interest (SSSI) which is located approximately 1-1.6 km to the north west of the site. In terms of non-statutory local nature conservation designations, the Straiton Hills Provisional Local Wildlife Site (PLWS) intersects part of the north eastern boundary of the site, while the Shaws Knowe PLWS is located approximately 0.8-1.2km to the north west of the site.

The site is located outwith the buffer zone for the Galloway Forest and Dark Sky Park and the UNESCO Galloway and Southern Ayrshire Biosphere. The proposed development is however within the transition zone of these areas.

There are no designated cultural heritage assets within the site boundary itself, but there are assets located within 5km of the site boundary, including 3 scheduled monuments, 7 Category B Listed Buildings, 8 Category C Listed Buildings and 2 conservation areas.

The site is drained by a number of tributaries of the Water of Girvan to the east of the site. Flood risk mapping indicates that within the site boundary this is a likelihood of both fluvial flooding and surface water flooding.

Almost 90% of the site contains peat depths of less than 0.5m, principally located in the centre, west and north. There are areas where peat depths are between <2-<3m, including around turbine 4 and 9 infrastructure, to the north west of turbine 10 and to the south of turbine 6. The areas of deepest peat, greater than 3m, were recorded to the east of turbine 4

The proposal is classified as a National Development in National Planning Framework 4 (NPF4), thereby benefitting from 'in principle' policy support. Proposals which contribute to the generation of renewable energy are significant with regard to meeting the objectives and overarching policies of tackling the climate and nature crises of both NPF4 and South Ayrshire Local Development Plan 2 (SALDP2). This in principle support is further reiterated by NPF4 Policy 11 which supports renewable energy projects, subject to consideration of detailed matters.

Having regard to detailed and site-specific matters, any potential effects regarding aviation, ecology, cultural heritage, hydrology, hydrogeology, and residential amenity impacts can be mitigated.

However, the substantial changes which would occur as a result of the proposed development, would affect a large number of landscape and visual receptors over a large part of the landscape, demonstrating that the proposed development is not fully compliant within NPF4 Policies 4 and 11 and the landscaping and renewable energy related policies SALDP2.

Having considered the application submission as a whole and notwithstanding the identified benefits of the scheme, together with the responses received and having balanced the developers' interest against the wider community interest, it is recommended that the Council confirms a position of objection to this proposed development be submitted to the Scottish Government at this time.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

### REGULATORY PANEL: 5 FEBRUARY 2026

|                         |                                                                                                                                                                                                                                            |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SUBJECT:</b>         | <b>CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989</b>                                                                                                                                                                           |
| <b>APPLICATION REF:</b> | <b>25/00334/DEEM</b>                                                                                                                                                                                                                       |
| <b>SITE ADDRESS:</b>    | <b>PROPOSED WIND FARM<br/>U27 FROM B741 JUNCTION AT CLOYNTIE TO U66 JUNCTION AT<br/>SOUTH BALLOCH<br/>MAYBOLE<br/>SOUTH AYRSHIRE</b>                                                                                                       |
| <b>DESCRIPTION:</b>     | <b>APPLICATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989<br/>FOR PERMISSION TO ERECT AND OPERATE BACK FELL WIND FARM<br/>(10 TURBINES VARIABLE HEIGHT UP TO 200M, ENERGY STORAGE<br/>SYSTEM, ACCESS AND ASSOCIATED INFRASTRUCTURE).</b> |
| <b>RECOMMENDATION:</b>  | <b>OBJECTION</b>                                                                                                                                                                                                                           |

#### 1. Purpose of Report:

- 1.1. South Ayrshire Council has been consulted by The Scottish Government Energy Consents Unit, under Section 36 of The Electricity Act 1989, regarding an application by E Power Ltd. for the erection and operation of a wind farm and associated infrastructure at Back Fell, near Straiton, South Ayrshire.
- 1.2. The Council is not the determining authority for this proposal. This report sets out the proposed response to The Scottish Government's consultation which was issued on the 21 May 2025. An extension of time to 20 February 2026 has been agreed for South Ayrshire Council to provide its consultation response. It is imperative that the Council responds within the agreed time period, or its statutory rights would be affected.
- 1.3. Under the Council's Scheme of Delegation relative to planning, all Section 36 consultations from the Scottish Government Energy Consents Unit require to be referred to the Council's Regulatory Panel.
- 1.4. Under the Electricity Act 1989, Schedule 8, Part 2, Paragraph 2 (a), where the relevant Planning Authority notifies the Scottish Ministers that they object to the application and their objection is not withdrawn, the Scottish Ministers shall cause a public inquiry to be held.

#### 2. Recommendation:

- 2.1. It is recommended that the Regulatory Panel:
  - Submits this report to The Scottish Government as an objection to the proposed wind farm.

### **3. Background and Procedural Matters:**

#### **Consenting**

- 3.1. In 19 May 2025, the applicant submitted to The Scottish Government a Section 36 Application together with an application that planning permission be deemed to be granted in respect of the construction and operation of a windfarm exceeding 50 Megawatts of electricity comprising of 10 turbines with maximum tip height of 200 metres high. The proposal also includes an energy storage system of up to 30MW, access and ancillary development at land to the south east of Straiton, South Ayrshire.
- 3.2. Under Section 36 of The Electricity Act 1989, the construction of a generating station with a capacity which exceeds 50 MW requires the consent of Scottish Ministers. The proposed windfarm and energy storage system will generate approximately 92MW per annum.
- 3.3. The Scottish Government formally consulted the Council on the proposed development on 21 May 2025, with an original deadline for response on the application of 20 September. The Planning Service made an initial request for the time period to respond to be extended to 10 October. This was followed by further requests for an extension to 14 November 2025 and then 20 February 2026, which were agreed by the ECU.

#### **Environmental Impact Assessment**

- 3.4. The proposed development constitutes a Schedule 2 development as classified by the Electricity Works (EIA) (Scotland) Regulations 2017 and the application is supported with an Environmental Impact Assessment Report (EIAR). An EIA Scoping request was submitted to the ECU in June 2023 and the Council contributed to the Scoping Response issued by the ECU on 1 August 2023.
- 3.5. Under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, Scottish Ministers are required to consider whether any proposal for a generating station is likely to have a significant effect on the environment. These Regulations stipulate that Scottish Ministers must consult the local Planning Authority, Nature Scot (formerly 'Scottish Natural Heritage), Scottish Environment Protection Agency and Historic Environment Scotland. The Regulatory Panel are asked to note that in the event that a Planning Authority objects to a Section 36 Application, and does not withdraw its objection, a public inquiry must be held, before the Scottish Ministers decide whether to grant consent (Refer Paragraph 2, Schedule 8 of the Electricity Act, 1989).
- 3.6. In reaching their decision, Scottish Ministers have to take into account the environmental information submitted with the application and supporting Environmental Impact Assessment, the representations made by statutory consultative bodies and others in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, Scottish Planning Policy on Renewable Energy, other relevant Policy, Planning Advice Notes, the relevant Planning Authority's Development Plans and any relevant supplementary guidance.
- 3.7. The connection of the wind farm with the local electricity distribution network would require consent under Section 37 of The Electricity Act 1989. This would be subject to a separate application.

### **4. Development Proposal**

- 4.1. The proposed development comprises the construction and operation of 10 wind turbines, an energy storage system, substation and compound, access, and associated infrastructure. Each turbine will be three bladed with a horizontal axis with a blade tip height of a maximum of 200m. Each turbine will have an installed capacity of approximately 6.2MW. The overall anticipated generating capacity of the wind farm would be approximately 92MW.
- 4.2. The proposed development comprises the construction and operation of 10 wind turbines, an energy storage system, substation and compound, access, and associated infrastructure. Each turbine will be three bladed with a horizontal axis with a blade tip height of a maximum of 200m. Each turbine will have an installed capacity of approximately 6.2MW. The overall anticipated generating capacity of the wind farm would be approximately 92MW.

4.3. Full details of the proposed development can be summarised as the following:

- 10 wind turbines of variable tip height with the maximum being up to 200 metres;
- turbine foundations;
- areas of hardstanding at each turbine for construction purposes;
- A Battery Energy Storage System (BESS) compound, up to 30 MW;
- an electrical substation and compound;
- a network of buried cables;
- A new access taken from U068 unclassified road. Two options proposed;
- a network of new and upgraded access tracks throughout the site (totalling up to approximately 21km);
- watercourse crossings (seven new and nine existing to be upgraded);
- up to three borrow pits;
- up to 3 temporary construction compounds.

4.4. The underground electrical, fibre optic and earth cables will connect the turbines to the onsite substation which in turn will be connected to the electricity network.

4.5. The proposed onsite substation and BESS compounds are located to the north of the site adjacent to turbine T02. The substation compound will house the outdoor electrical high voltage equipment, transformer and control buildings for the Network Owner and the proposed development and will occupy an area of approximately 100 m x 75 m surrounded by security fencing. Underground electrical, cabling will connect the wind turbines to the substation which in turn will be connected to the National Grid network.

4.6. The BESS compound will be situated adjacent to the substation, have a footprint of approximately 50m x 75m and be surrounded by security fencing. Inside the BESS compound there will be around 20 containerised battery units, a small control building, transformers, inverters, cooling plant and ancillary equipment.

4.7. The applicant has set out that the expected operational life of the wind farm is 35 years. The applicant has also requested a micro-siting distance of 50m around the wind turbines.

#### **Application Site**

4.8. The proposed development site extends to approximately 859 hectares (ha) and is located approximately 2.2 km to the south-west of the village of Straiton. The site currently consists largely of commercial plantation forestry. Towards the north, at the location of proposed Access Option 1 to the U068, the land use is open agricultural land. The site is within a sparsely populated area characterised by extensive forestry. The topography ranges from its highest point at approximately 425m AOD at Back Fell summit, to approximately 180m AOD at the proposed access points to the site. The proposed development is solely within the planning authority of South Ayrshire Council.

4.9. The nearest settlements to the site are Straiton, approximately 2.2km to the north east of the site boundary, and Crosshill, approximately 3.2km to the northwest. The nearest residential property to the site is Knockskae, located adjacent to the south east boundary of the site. A number of individual properties are located further west, north, north west and south of the site. There are other operational and proposed wind farms in the vicinity of the site. The closest operational wind farm is Dersalloch, approximately 4km to the north of the site, comprising 23 turbines 125m to tip. Hadyard Hill Wind Farm is also located approximately 5.3km to the south-west of the site, comprising of 52 turbines 100-110m to tip. Three wind farms, all to be located to the south of the site, were recently subject to a public inquiry, Craiginmoddie (14 turbines 200m tip height), Carrick (13 turbines 200m tip height) and Knockcronal (9 turbines, 3 up to 180m and 6 up 200m tip height). Both Craiginmoddie and Knockcronal were approved, and Carrick was refused by the ECU in November 2025. Knockcronal shares an application boundary with the Back Fell site.

4.10. The site is not subject to any national landscape designations, and no part of the site is located within a Wild Land Area (WLA). The closest WLA to the proposed development is WLA 01. 'Merrick,' approximately 7.3km to the south east.

- 4.11. The South Ayrshire Local Development Plan 2 (LDP2) (2022) designates a series of Local Landscape Areas. The Water of Girvan LLA overlaps with most of the site, where 9 of the 10 turbines are proposed to be situated. There are a number of landscape designations within the vicinity of the site boundary, including High Carrick Hills LLA to the south east and The Stinchar Valley to the south. These include locally valued landscapes that have been designated through the Local Development Plans of South Ayrshire, East Ayrshire, and Dumfries & Galloway.
- 4.12. The site does not form part of any statutory designated site for nature conservation with qualifying ecological interests. The nearest such designation is the Auchalton Site of Special Scientific Interest (SSSI) which is located approximately 1-1.6 km to the north west of the site. In terms of non-statutory local nature conservation designations, the Straiton Hills Provisional Local Wildlife Site (PLWS) intersects part of the north eastern boundary of the site, while the Shaws Knowe PLWS is located approximately 0.8-1.2km to the north west of the site.
- 4.13. There are no designated cultural heritage assets within the site boundary itself. There are 44 non-designated cultural heritage assets located within or directly adjacent to the site boundary, including one non-inventory designed landscape (NIDL) Kirkbride House.
- 4.14. There are 3 Scheduled Monuments, 4 Category A Listed Buildings, 7 Category B Listed Buildings, 8 Category C Listed Buildings, 2 Conservation Areas, and 2 non-designated designed landscapes (sites of), within 5km of the proposed wind turbine locations. Within 5-10km of the proposed wind turbine locations, there is 14 Scheduled Monuments, 8 Category A Listed Buildings, 4 Conservation Areas and 15 Category B Listed Buildings. Between 10-15km of the proposed wind turbine locations, there are 10 Scheduled Monuments.
- 4.15. The site is drained by a number of tributaries of the Water of Girvan to the east of the site. SEPA's online flood risk mapping indicates that within the site boundary there is a high (10% chance of happening in any one year) to medium (0.5% chance of happening in any one year) likelihood of fluvial flooding in relation to the Palmullan Burn (to south), the Knockoner Burn and the Balbeg Burn and the network of drains within the western section of the site. SEPA's flood risk mapping also indicates several smaller area and drainage channels throughout the forested area of the site are at a high (10% chance of happening in any one year) likelihood of surface water flooding.
- 4.16. Peat probing surveys were undertaken by the applicant in August 2023 and in August-September 2024. The interpolated peat depth map (EIA Report Appendix 11.2) indicates that approximately 88% of the site contains peat depths <0.5m, principally located in the centre, west and north. There are areas where peat depths are between <2-<3m, including around turbine 4 and 9 infrastructure, to the north west of turbine 10 and to the south of turbine 6. The areas of deepest peat, >3m, were recorded to the east of turbine 4, near the Application Boundary.
- 4.17. The site is located outwith the buffer zone for the Galloway Forest and Dark Sky Park and the UNESCO Galloway and Southern Ayrshire Biosphere. The proposed development is however within the transition zone of these areas.

## **5. Consultations**

- 5.1. Consultations on this application are undertaken by The Scottish Government. Comments arising from internal consultation within South Ayrshire Council (department services) are incorporated into the assessment section of this report and will be forwarded to the ECU. The following consultation responses are for noting only.
- 5.2. Comments arising from consultation within South Ayrshire Council (department services) are also summarised below and where appropriate these are also incorporated into the Assessment section of this panel report. These responses which have informed the Council's overall position as a consultee will be forwarded to the Scottish Government as part of the final recommendation.

### **ECU - Statutory Consultees:**

- 5.3. **The Coal Authority** – Offer no objection. The site is not located with the defined coalfield.

- 5.4. **Historic Environment Scotland ('HES')** - have considered the accompanying EIA Report and have no objection to the application. The impacts on the integrity of the setting of the scheduled monument and A-listed building and associated inventory designed landscape, in the vicinity of the application site, would not be significantly adverse and would not raise issues of national interest. Overall, HES are content that the proposals would not raise issues of national interest with regard to any heritage assets.
- 5.5. **NatureScot** - Have provided a detailed appraisal of the impacts of the proposal and advice. A range of mitigation measures and conditions are advised with respect to European Protected Species, birds and peat. NatureScot have not objected to the proposal but advise enhancement and mitigation will be required across each of the subject matters. This will be secured via the submission of management, mitigation and enhancement plans and controlled by planning conditions.
- 5.6. **Scottish Water ('SW')** – Offer no objection. There are no Scottish Water drinking water catchments or abstraction sources in the area that may be affected by the proposed development.
- 5.7. **Scottish Environment Protection Agency ('SEPA')** - Submitted an initial consultation response on 16 June 2025. Due to a lack of information in relation to potential impacts on peat / carbon-rich soils (CRS), groundwater dependent terrestrial ecosystems (GWDTEs) and groundwater abstractions, SEPA submitted a holding objection and requested that determination is deferred until additional information is submitted and modifications made.
- 5.8. The applicant provided additional information in response and a revised SEPA response was issued on 14 October removing their holding objection. SEPA are satisfied that, subject to conditions, the impact on peat and carbon-rich soils has been addressed.
- 5.9. With regard to the proposed site access options, SEPA had advised that Option 1 is preferable on the basis that it does not require extra water crossings and avoids areas of deep peat. If Option 2 were to be taken forward, then SEPA would require detailed plans to show disruption to the flow of GWDTEs will be avoided. The applicant confirmed that they would proceed with access Option 1, to eliminate SEPA's concerns.
- 5.10. **Transport Scotland (TS)** - Satisfied that the increase in traffic associated with construction of the development will not exceed the threshold present in the IMEA guidelines and that no further assessment is required. TS has no objection to the development in terms of environmental impacts on the trunk road network. TS has requested 4 planning conditions in relation to abnormal loads and traffic management.
- 5.11. **Scottish Forestry** – Have outlined that compensatory planting will be required and Scottish Forestry should be consulted on any compensatory planting proposal. Any forestry related felling consented through the planning process should be limited to that required for the construction of the windfarm only.
- 5.12. **Royal Society of Protection of Birds (RSPB)** – Have no comments with regard to the proposed development due to the relatively low level of activity recorded for at high-risk species at the locale.

**Internal Scottish Government Advisors:**

- 5.13. **Ironside Farrar (Peat Slide Risk Assessment) ('IF')**: have technically assessed the Peat Landslide Hazard and Risk Assessment(s) (PLHRAs) submitted by the applicant. Peat landslide risk is considered to be negligible to low within the PLHRA for the majority of the proposed development therefore only generic mitigation and good practice measures have been provided. Ironside Farrar consider this mitigation to be acceptable; however, further specific mitigation will be required if the access track near Turbine 10 and the area between Turbines 7 and 9 are confirmed to be in moderate risk areas. Ironside Farrar advise that the PLHRA requires minor revisions and has provided a list of recommendations requiring clarification from the developer.

**ECU - Non-Statutory Consultees:**

- 5.14. **NATS Safeguarding ('NATS')** – Offer no objection.
- 5.15. **British Telecom ('BT')** – Offer no objection.
- 5.16. **Defence Infrastructure Organisation ('MOD')** – have no objection to the proposal subject to the conditions set out in appendix A of their consultation response. In this case, the development falls within a Tactical Training Area (TTA 20T), within which fixed wing aircraft may operate as low as 30.5m above ground level to conduct low level flight training. Given the scale and location of the development, MOD require a condition that the development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately chartered to allow deconfliction. The MOD also require the submission, approval and implementation of an aviation safety lighting specification that details the installation of MOD accredited aviation safety lighting. This should be approved by the Scottish Government in conjunction with the Civil Aviation Authority and the MOD.
- 5.17. **Glasgow Prestwick Airport ('PIK')** – Provided an initial consultation response to the ECU on 13<sup>th</sup> June 2025. The proposal is considered raise aviation safety concerns which could have an operational impact on the airport as an Air Navigation Services Provider (ANSP), with a potential impact on both radar and radio communication. PIK have issued a holding objection until all technical and operational aviation safety matters are addressed.
- 5.18. **Scottish Rights of Way and Access Society ('ScotWays')** – Provided an initial consultation response to ECU on 2<sup>nd</sup> July 2025. Requested that additional visualizations be provided by applicant for the consideration of ScotWays prior to determination, maintaining a holding objection. The applicant provided the information requested and ScotWays issued a further response on 23<sup>rd</sup> October removing their objection to the proposed development.
- 5.19. **Ayrshire Rivers Trust ('ART')** - Advise that the proposed development should have appropriate risk assessments, relevant monitoring programmes and a suitable mitigation strategy in place to protect fish, invertebrates, and fisheries before any onsite work commences.
- 5.20. **Joint Radio Company ('JRC')** – Offer no objection. The proposal is considered to be acceptable with respect to radio link infrastructure operated by the local energy networks.
- 5.21. **Met Office** – Offer no objection.

**Community Councils:**

- 5.22. **Crosshill, Straiton and Kirkmichael Community Council:** object to the application on a variety of grounds, including the cumulative impact of the development, construction traffic impacts, and the negative impact on the Dark Sky Park, Galloway Forest Park and Galloway and Southern Ayrshire UNESCO Biosphere.
- 5.23. **Daily Community Council** - object to the application on a variety of grounds, including the cumulative impact of the development, the negative visual impact, adverse effects on the LLA, construction traffic impacts, woodland loss and associated impacts, peat degradation, potential contamination of local watercourses, noise and lighting, and lack of biodiversity net gain.

**South Ayrshire Council Internal Consultees:**

- 5.24. **Ayrshire Roads Alliance (ARA)** – Objection, unless the conditions relating to the formation of the access and road traffic are attached to any consent.

The ARA initially objected to the proposed development. This was on the basis that insufficient information was provided regarding the preferred Abnormal Indivisible Load (AIL) route to conclude that the parking displacement through Crosshill associated with the construction phase of the development could be safely accommodated on the local road network.

The applicant provided additional information in a response dated 18<sup>th</sup> November 2025. The ARA considered this information outlines that there is sufficient alternative parking available to within Crosshill. As such, the matter can be controlled through appropriate mitigation measures, covered by condition, and the ARA removed their recommendation of objection.

- 5.25. **Council's Ecology and Biodiversity Consultant (Applied Ecology)** - SAC's appointed ecologist reviewed EIAR Chapter 10 – Ecology and associated appendixes. They confirmed that the information provided was detailed and did not object to the proposals but advised that clarity should be sought from the applicant on matters relating to peatland management, GWDTEs and protected species, prior to determination. The applicant provided the additional information, as requested, in an additional response dated 18<sup>th</sup> November 2025, including an Outline Habitat Management Plan.
- 5.26. **Council's Environmental Health Service** – Objection, unless the conditions in relation to water impacts and noise are attached to any consent.
- 5.27. **Council's Landscape Consultant (Douglas Harman)** – Objection, as the proposals would result in substantial changes which would affect a number of landscape and visual receptors over a large part of the landscape, and the effects of the proposals are therefore not considered to be localised.
- 5.28. **Council's Noise Consultant (ACCON)** – Objection, unless the conditions in relation to noise limits and controls are attached to any consent.
- 5.29. **West of Scotland Archaeology Service (WoSAS)** – Objection, unless a condition for the submission of a Written Scheme of Investigation (WSI) prior to the commencement of development is attached to any consent.
- 5.30. **Council's Outdoor Access Officer** – Offer no objection.

## 6. Applicant's Supporting Information

- 6.1. The application submission to Scottish Ministers is accompanied by a range of supporting documentation. This includes a Planning Statement, an Environmental Impact Assessment Report (EIA Report), A Non-Technical Summary, a Landscape Design Strategy and Statement of Community Consultation alongside a suite of accompanying plans, drawings, visualisations, and photomontages.
- 6.2. The EIA Report considers the following principal topics: Planning and Energy Policy, Landscape and Visual, Cultural Heritage, Ornithology, Ecology, Geology, Hydrology and Hydrogeology, Forestry, Access, Traffic and Transport, Noise, Aviation, Shadow Flicker, Telecommunications, Socioeconomics and Carbon Balance. Several technical appendices assessing different specific matters within these broader topic areas also supplement the main EIA Report and chapters where relevant

## 7. Planning History

- 7.1. The most notable planning history for the site are the operational and recently determined windfarms within the surrounding landscape of the application site. There are also some refusals of relevance.
- An application under section 36 for proposed windfarm known as 'Linfairn' was withdrawn by the applicant prior to determination (13/01130/DEEM). The site boundary included part of the south eastern section of the current application windfarm application site. The proposals comprised of up to 25 turbines with a blade tip height of up to 126.5 metres. The Council had recommended an objection to the proposal.
  - A Planning Application for a proposed windfarm known as 'Knockskae' was refused by the Council in April 2017 (15/01216/APPM). This application related to a site occupying most of the area of the current proposed windfarm. This application was for the erection 11 turbines, 126m tip height.
  - The proposed Carrick, Craiginmoddie and Knockcronal wind farm proposals are located to the south of the proposed Back Fell development, with Knockcronal sharing an application boundary with the current site. All three wind farms have been subject to a conjoined PLI in 2023. Both Craiginmoddie and Knockcronal have now been approved, and Carrick refused by the ECU in November 2025.
  - The closest operational wind farm is Dersalloch, approximately 4km to the east of the site. Hadyard Hill Wind Farm is also located approximately 5.3km to the south-west of the site. A full table of all Wind Farms within 25km of the proposed site as of 30th May 2025 can be found in Table 6.2 of the applicant's EIAR Chapter 6.

## **8. Development Plan**

- 8.1. The proposed development has been submitted under The Electricity Act and the statutory requirement under Section 25 of The Town and Country Planning (Scotland) Act 1997 (as amended) – i.e., decisions to be made in accordance with the development plan unless material considerations indicate otherwise – does not apply in this instance. However, the Local Development Plan remains a significant material consideration.
- 8.2. Following the implementation of The Planning (Scotland) Act 2019 and the adoption of National Planning Framework 4 (NPF4) on 13 February 2023, the current Development Plan for South Ayrshire incorporates NPF4 and the South Ayrshire Local Development Plan 2 (LDP2) (2022).
- 8.3. The Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”); Section 24(3)). NPF4 was adopted after the adoption of LDP2, therefore NPF4 will prevail in the event of any incompatibility between the policy frameworks.
- 8.4. NPF4 and the policies which apply in the context of the development proposal subject to this application largely overlap with the policy considerations and requirements of LDP2. Whilst there are some differences in specific criteria requirements within certain consistent and overarching policies between NPF4 and LDP2, it is not considered that any of these would constitute an apparent material policy conflict which would require a particular policy of NPF4 to be considered in place of a policy in LDP2. Greater weighting will be given to the assessment criteria for renewable energy within NPF4 than in LDP2 as it is the most up to date policy on this subject.

### **NPF4**

- 8.5. NPF4 confirms that the purpose of planning is to manage the development and use of land in the long-term public interest. NPF4 also maintains a plan-led system and provides a long-term spatial strategy to 2045 based around enabling the transition to net zero emissions and environmental sustainability; driving inclusive economic growth; and building resilient and sustainable places, which adapt to the impacts of climate change, whilst protecting, recovering, and restoring our environment.
- 8.6. The primary development plan policy which the proposal will be assessed against is **NPF4 Policy 11 – Energy**.
- 8.7. The following policies of NPF4 are also applicable to the assessment of the application and can viewed in full at <https://www.gov.scot/publications/national-planning-framework-4/>.
- Policy 1 – Tackling the climate and nature crises
  - Policy 2 – Climate mitigation and adaption
  - Policy 3 – Biodiversity
  - Policy 4 – Natural Places
  - Policy 5 – Soils
  - Policy 6 – Forestry Woodland and Trees
  - Policy 7 – Historic assets and places
  - Policy 11 – Energy
  - Policy 22 – Flood Risk and Water Management
  - Policy 25 – Community Wealth Building
  - Policy 29 – Rural Development
- 8.8. It is important to note that the provisions of NPF4 must be read and applied as a whole and as such no policies should be read in isolation. An assessment of the proposal against the provisions of NPF4 and the above policies is set out below.
- 8.9. It is worthwhile to note that in assessing the proposal, the Council is not the determining authority and is providing comments as a Statutory Consultee to the Scottish Ministers
- 8.10. As NPF4 is the most recent document, the policies within it have been used as the basis for the report and relevant sections of the LDP2 Policy and Planning Guidance criteria are addressed with each relevant NPF4 Policy.

### **NPF4 – National Developments**

- 8.11. National developments are significant developments of national importance that will help to deliver the Spatial Strategy for Scotland. NPF4 identifies 18 national developments that aid in supporting the delivery of this strategy and Scotland's commitment to net zero. These support the planning and delivery of:
- sustainable places, where we reduce emissions, restore and better connect biodiversity;
  - liveable places, where we can all live better, healthier lives; and
  - productive places, where we have a greener, fairer and more inclusive wellbeing economy.
- 8.12. Six of the national developments support the delivery of sustainable places which is of most relevance to this proposed development. National Development 3 covers Strategic Renewable Electricity Generation and Transmission Infrastructure to support renewable electricity generation and associated grid infrastructure around Scotland. This sets out that any on shore electricity generation development from renewables exceeding 50MW capacity and would normally be classed as a major application, would also constitute a National Development.
- 8.13. As this proposal is an onshore wind farm exceeding 50MW, it would constitute a National Development and would help support the overarching aims of the NPF4 and spatial strategies to achieve net zero targets and provide renewable energy. National development status does not mean permission is automatically granted for the development and all require to be robustly assessed.
- 8.14. NPF4 and their designation as a National Development means that the principle of the development is considered acceptable but a full understanding of the potential impacts and required mitigation is required before any determination can be made.

### **South Ayrshire Council Local Development Plan 2 (LDP2)**

- 8.15. The following policies of LDP2 are considered relevant in the assessment of the application can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx>.
- LDP Spatial Strategy
  - Strategic Policy 1: Sustainable Development
  - Strategic Policy 2: Development Management
  - LDP Policy: Landscape Quality
  - LDP Policy: Woodland and forestry
  - LDP Policy: Preserving Trees
  - LDP Policy: Water Environment
  - LDP Policy: Flood and Development
  - LDP Policy: Agricultural Land
  - LDP Policy: Air, Noise and Light Pollution
  - LDP Policy: Renewable Energy
  - LDP Policy: Historic Environment
  - LDP Policy: Natural Heritage
  - LDP Policy: Land Use and Transport
- 8.16. As per NPF4, the provisions of LDP2 must be read and applied as a whole and as such, no single policy should be read in isolation. The application has been considered in this context and alongside NPF4.

## 9. Assessment

- 9.1. This report will be structured to assess the relevant and comparable policies within NPF4 and LDP2 together and assess any which are only in one part of the Development Plan separately. With NPF4 being the most recent Development Plan document, these policies have been used as the main structure for the report with the relevant LDP2 policies referenced and considered throughout the assessment.

- 9.2. Having regard to the Development Plan policy considerations set out above, the following matters have been identified in the proceeding sub-sections below.

### **Sustainable Places**

- 9.3. Both NPF4 and LDP2 promote sustainable development through creating sustainable places that respect the environment and manage and adapt to the effects of Climate Change. Tackling the climate and nature crises, through climate mitigation and adaptation, is a key requirement of the following NPF4 policies and Strategic Policy 1 in LDP2.

- 9.4. **NPF4 Policy 1 – Tackling the climate and nature crises:** When considering all development proposals significant weight will be given to the global climate and nature crises.

- 9.5. **NPF4 Policy 2 – Climate mitigation and adoption:** Seeks to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

- 9.6. **LDP Strategic Policy 1 - Sustainable Development:** Supports the principles of sustainable development by making sure that development meets the standards set out within the policy. The relevant standards are considered to be:

- Respects, protects and where possible, enhances natural, built and cultural heritage resources.
- Protects and safeguards the integrity of designated sites.
- Protects peat resources and carbon rich soils.
- Does not have a negative effect on air or water quality.
- Respects the character of the landscape and the setting of settlements.
- Respects, and where possible contributes to the Central Scotland Green Network.
- Makes efficient use of land and resources
- Helps mitigate and adapt to the effects of climate change
- When considering development proposals, due weight will be given to the consideration of net economic benefit.

- 9.7. The Scottish Government policies, commitments and targets for sustainable energy are set out in the ministerial statements, key policy documents and statute. The key ministerial statements and policies considered as part of the assessment of the current proposals are The Scottish Government's Declaration of a Climate Emergency (2019), the emissions reductions targets set out in the Climate Change (Emissions Reduction) (Scotland) Act 2019, The Scottish Energy Strategy (December 2017), and the Scottish Climate Change Plan 2018 to 2032 (2020 updated). The onshore Wind Policy Statement 2022 sets out an ambition of achieving 20GW of onshore wind capacity in Scotland by 2030.

- 9.8. There is a clear national and local policy emphasis towards tackling the climate crisis and a drive towards green energy and reduction of carbon. NPF4 sets out that significant weight must be given to tackling the climate and nature crises and thereby proposals which support tackling these, would have significant support. Discussion on the nature crisis will be set out later in the report with this section focussing on the climate crisis impact. NPF4 also sets out that any development should be sited and constructed in a way to minimise lifecycle greenhouse gases. These aims need also be put in the context of sustainable development which aims to ensure that development is carried out sustainably without significant detrimental impacts which would outweigh the developments positives and carbon reduction benefits. Policy 1 of the South Ayrshire Local Development Plan 2 sets out criteria in this regard. NPF4 puts forward a presumption in favour of development which will help tackle the climate and nature crises, but this must be balanced against any significant detrimental impacts of a development which may outweigh these positives.

- 9.9. The supporting information submitted with the application sets out that the proposal will generate approximately 92MW of renewable electricity, supported by a BESS of up to 30MW, which help meet the Scottish Government's renewable energy generation targets in the post 2020 period.

- 9.10. **Chapter 3.1.1** of the applicants **Planning Statement** states that the proposed development would help meet the Scottish Government's Net Zero greenhouse gas emission target by 2045 and the wider UK target of 2050.
- 9.11. **EIAR Chapter 19 - Carbon Balance** uses a carbon calculator tool, which is designed for applications for the construction and operation of onshore wind farms in Scotland located where peat is present. It states that on the basis of potential annual CO<sub>2</sub> savings of 81,520t/year, the proposed development could result in a total carbon saving of 2.9 million tonnes over its 35-year operational life. It is predicted that carbon loss in developing the proposal would be paid back in approximately 1.9 years for Access Option 1 and 2 years for Option 2, based upon the expected outcome under the fossil fuel mix, which is equivalent to 6% of its 35-year operational lifespan.
- 9.12. It is considered that the development would comply with NPF4 Policies 1 and 2 as the proposal would assist in tackling the climate crisis and would have a positive effect in terms of greenhouse gas emission reduction targets.
- 9.13. In terms of LDP2 Strategic Policy 1, it is considered that the proposal meets the criteria specified within the policy. Detailed assessment against the specific applicable criteria within this policy are set out within other sections of the report. There is a notable overlap between the criteria of LDP Strategic Policy 1 and NPF4 Policy 11 - Energy, therefore these matters will be discussed in appropriate sections below to avoid unnecessary repetition.

### **Conclusion on Sustainable Places**

- 9.14. The proposal is considered to meet the objectives and overarching policies of tackling the climate and nature crises which are the primary policies of NPF4 and the sustainable development policies of the LDP2.

### **Renewable Energy**

- 9.15. **NPF4 Policy 11 – Energy** is the most relevant policy for the proposed development. This policy encourages, promotes and facilitates all forms of renewable energy development onshore and offshore. This policy sets out detailed criteria for assessment of this type of development and this will be used to structure the report. The corresponding criteria from **LDP2 2022 and Wind Energy Planning Policy Guidance 2015** are also assessed under each topic.
- 9.16. **NPF4 Policy 11 – Energy** states:
- a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:
    - i. wind farms;
    - iii. energy storage, such as battery storage;
    - vii. proposals including co-location of these technologies.
  - b) Development proposals for wind farms in National Parks and National Scenic Areas will not be supported.
  - c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.
  - d) Development proposals that impact on international or national designations will be assessed in relation to Policy 4.
  - e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:
    - i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;
    - ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;
    - iii. public access, including impact on long distance walking and cycling routes and scenic routes;
    - iv. impacts on aviation and defence interests including seismological recording;
    - v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
    - vi. impacts on road traffic and on adjacent trunk roads, including during construction;
    - vii. impacts on historic environment;
    - viii. effects on hydrology, the water environment and flood risk;

- ix. biodiversity including impacts on birds;
- x. impacts on trees, woods and forests;
- xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;
- xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and
- xiii. cumulative impacts.

9.17. In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

9.18. Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible.

- f) Consents for development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity.

9.19. In assessing the proposed development against the above criteria, it is found that

#### **Criteria (a) and (b) – Application type and location**

9.20. The proposed development is a wind farm and energy storage system and therefore complies with criteria a. It is not located within a National Park or National Scenic Area; therefore criteria b is not applicable.

#### **Criteria (c) – Socio-economic impact**

9.21. Criteria c only supports development that maximise net economic impacts, including local and community socio-economic benefits. The key socio-economic benefits associated with the proposed development are set out within **EIAR Chapter 13** and are discussed under **NPF4 Policy 25 – Community Wealth Building** They are:

- During the construction phase there is potential for up to £9.8m and £29.7m to be spent within the South Ayrshire and Scottish economies, respectively.
- Creation of up to 71 jobs within South Ayrshire and up to 216 jobs across Scotland during the construction period.
- Up to 1.6m will be spent within South Ayrshire and up to 13 jobs created over the 35-year operational life of the proposed development.
- Up to 4.9 million in Local Value Added (LVA) is anticipated to be contributed to the local economy.

9.22. The applicant has also arranged a community benefit fund, offering £5,000 per MW per year during the operational life of the proposed development – this is the figure recommended by the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments 2019. This would equate to a total of nearly £310,000 per annum and £10.85m over the lifetime (35 years) of the project to the local community. It should be noted that the community benefit fund is a voluntary arrangement and not a material planning consideration.

9.23. With regards to the potential impact on tourism, **EIAR Chapter 13** suggests that based on research to date, there is not considered to be a discernible relationship between the development of onshore wind farms and tourism/recreation. Consequently, it assumes that impacts on individually identified tourism receptors are minor/negligible. This matter is discussed further in this report.

9.24. Overall, it is considered that net economic benefits of the proposed development have been maximised as far as reasonably possible, and therefore complies with Criteria c.

### **Criteria (d) – international and national designations**

- 9.25. This requires detailed assessment of the impact of the proposal on any international or national designations in the area. This impact is considered within each section of Criteria e where applicable.
- 9.26. Criteria e requires the project design and mitigation impacts to address a number of environmental factors which may be affected by the proposed development. This aligns with the broader policy intentions of the LDP2 which supports renewable energy development provided they do not result in harmful effects on the environment. It should be noted that the NPF4 policy criterion does not specifically state that if any of these impacts are not fully addressed that the development will be unacceptable, only that it must be demonstrated how they have sought to be addressed and suitably mitigated. The criteria within part (e) is assessed in the subsequent sections of the report.

### **Criteria (e)(i) – Impacts on communities and individual dwellings.**

- 9.27. In considering the appropriateness of the proposed development, NPF4 and LDP2 requires consideration of the impacts of the development on local communities including the amenity of the surrounding residents, visual impacts, noise and dust resulting from the development.
- 9.28. **Criteria (b) and (e) of LDP2 Policy: Wind Energy** seeks to protect residential amenity and states the following:

*(b) They do not have a significant detrimental visual impact, taking into account views experience from surrounding residential properties and settlements, public roads and paths, significant public viewpoints and important recreational assets and tourist attractions.*

*(e) They would have no other unacceptably detrimental effect upon the amenity of nearby residents, including from noise and shadow flicker*

- 9.29. **Criteria c** of Communities Quality of Life and Amenity of the Wind Farm Energy Planning Policy Guidance on Wind Energy states:

***We will support proposals if:***

*They do not have significant detrimental effect on the amenity of nearby residents, including from noise and shadow flicker*

- 9.30. The following LDP2 Policies are also applicable to assessing the impact on communities and individual dwellings:
- LDP Policy: Sustainable Development
  - LDP Policy: Air, Noise and Light Pollution
  - LDP Policy: Land use and Transport

### **Residential Visual Amenity**

- 9.31. The SAC Planning Policy Guidance on Wind Energy 2015 states that the design process for wind farms should take into account local residential properties and the extent to which the proposal will be visible. The design process should seek to minimise significant visual effects on private properties and the extent to which the proposal will be visible. Significant visual effects on private properties should be minimised. This section relates specifically to impacts on residential visual amenity. A detailed discussion on wider landscape and visual impacts will be discussed in later sections.
- 9.32. The Wind Energy Planning Guidance advises that a minimum required separation distance of 2km from towns and villages to a turbine. It also advises that all properties within 2.5km of wind turbines should be assessed for visual amenity impacts.

- 9.33. A Residential Visual Amenity Assessment (RVAA) (**EIAR Appendix 6.7**) has been undertaken by the applicant for properties within 2.5km of the proposed wind turbine locations. The RVAA considers effects on 30 residential properties within this distance (some are annotated as the same number owing to proximity on **EIAR Figure 6.34**). The following nine receptors have the potential to be significantly visually effected.

Threethorns – 2.1km from Proposed Turbine 3  
Threehorns Cottage – 1.9km from Proposed Turbine 3  
Craig – 2.3km from Proposed Turbine 4  
Knockskae – 1.2km from Proposed Turbine 7  
Linfairn – 2km from Proposed Turbine 9  
Glenalla 1km from Proposed Turbine 10  
Blair – 1.9km from Proposed Turbine 5  
Cullochknowes – 1.5km from Proposed Turbine 1  
Shawsknowe – 1.2km from Proposed Turbine 1  
Knockgardner – 1.3km from Proposed Turbine 3

- 9.34. The applicant considers that none would be affected to such a degree that the residential visual amenity threshold would be breached, due to intervening distance, partial screening by a combination of landform and woodland and use / orientation of the properties i.e. the proposed development would not make any of the properties an unattractive place to live.
- 9.35. Douglas Harman Landscape Consultant has been commissioned on behalf of the Council to review the Landscape and Visual Impact Assessment (LVIA) assessment, photomontages and visualisations submitted by the applicant. They have included comments as part of their response to the submitted RVAA. They have advised that as no photomontages have been submitted, only wireline drawings, they are unable to conclude if any of the properties identified would be likely to be significantly visually affected to the extent that the threshold has been reached, based on the information submitted. As such, the Planning Authority carried out site visits to each assess whether the Residential Amenity Threshold would be breached.
- 9.36. The RVAA Technical Guidance Note (2019) published by the Landscape Institute provides best practice guidance for assessing private views and private visual amenity. The RVAA threshold is referred to as the effect of the development on Residential Visual Amenity being of such nature or magnitude that it potentially affects living conditions or Residential Amenity. Based on the findings of the site visit, it is acknowledged that at the most sensitive receptors, there would be a visual impact. The extent of this impact however is not considered to breach the Residential Visual Amenity Threshold, due to factors including: the distance of the identified properties from the proposed development, the topography of the intervening landform, intervening areas of woodland, the direction of view/aspect of the properties affected being largely peripheral or secondary, and existing landscaping/vegetation surrounding residential properties.

#### **Noise**

- 9.37. **EIAR Chapter 8 – Noise** advises that the proposal has been prepared in accordance with ETSU-R-97 (The Assessment and Rating of Noise from Wind Farms) and the Institute of Acoustics (IoA) Good Practice Guide. The EIAR considers that subject to appropriate mitigation, operational noise due to the proposed development in conjunction with surrounding cumulative developments, would comply with the requirements of ETSU-R-97 and the Good Practice Guide at all receptor locations, therefore complying with planning policy.
- 9.38. The Council's appointed noise consultant, ACCON UK Limited, have been internally consulted to review the submitted documents relating to noise in order to inform Council considerations as to whether the noise assessments have been carried out appropriately and to advise on the acceptability or otherwise of the proposals with respect to noise impact.
- 9.39. ACCON concluded that the methodologies used in the noise chapter have followed ETSU-R-97 and the IOA Good Practice Guidance. They do advise that although there are minor errors in the noise assessment of the proposed wind farm operating alone and in the cumulative assessment, the assessments do demonstrate that the noise limits can be met in both scenarios. Subject to proposed conditions imposing noise limits and controls, ACCON have no objection to the proposal.

- 9.40. The Council's Environmental Health Service did not raise any concern regarding construction or operational noise but did propose operational noise related conditions. It is also considered that any construction related noise issues can be controlled via a Construction Management Plan.
- 9.41. Overall, it is considered that neither operational nor construction noise from the proposed development would result in a significant negative impact on residential amenity.

#### **Shadow Flicker**

- 9.42. Under certain conditions when the sun passes behind the rotors of a turbine a shadow can be cast on neighbouring properties. When the blades rotate a flicking on and off effect is created by the shadow, referred to as "Shadow Flicker". This can be a considerable nuisance to residents within nearby properties. Although there is no local or national UK mandatory requirements or criteria in relation to shadow effects caused by wind turbines, a report prepared for the Department of Energy and Climate Change suggests that a maximum of 30 hours of shadow flicker in a calendar year is a threshold for consideration, ideally with no longer than 30 minutes on any single occasion.
- 9.43. The incidence of "Shadow Flicker" is considered only to be an issue of significant concern if the distance between the nearest dwelling and rotor blades is less than 10 times the diameter of those blades. Additional guidance states that in the UK the limit of the zone is between 130 degrees either side of north. The Councils Wind Energy Planning Policy Guidance requires an assessment to be undertaken for all properties within 2.5 km of a proposed development (this distance threshold should take into account any screening of turbines offered by topography).
- 9.44. At the Scoping opinion stage, the developer proposed a study area of 10-rotor diameters from the proposed turbines, as recommended by the Scottish Government's Onshore Wind Turbines: Planning Advice (2014), was proposed. No comment or objection to this approach was provided by the Councils Environmental Health Service within the scoping opinion response. As such, the developer has undertaken their assessment on the basis of 10-rotor diameters to define the study area, which equates to a study area of 1.67km.
- 9.45. **EIAR Chapter 15 - Shadow Flicker** assesses the potential shadow flicker effects on identified properties within 1.67km of the proposed turbine locations. Of the 9 properties assessed, the following 6 properties have the potential to experience shadow flicker as a result of the proposed development alone and 2 (highlighted below) may experience cumulative shadow flicker effects in combination with both the proposed Knockcronal (subsequently consented) and Carrick (consequently refused) wind farms.
- Dyke Farm – 0.25 hours per annum
  - **Knockskae – 15.1 hours per annum**
  - **Glenalla – 12.5 hours per annum (Back Fell alone) and 29.58 hours per annum (cumulative)**
  - The Sheiling – 8.36 hours per annum
  - Border Cottage – 8.26 hours per annum
  - Glenview Cottage – 8.32 hours per annum
  - Shawsknowe – 8.3 hours per annum
  - Knockgardner Farm – 10.13 hours per annum

- 9.46. All properties within the study area are predicted to receive less shadow flicker than the 30 hours per year threshold. Subject to appropriate mitigation however, whereby the operation of a turbine(s) is paused at specific times, shadow flicker levels due to the proposed development would be within recommended limits at all potentially sensitive properties.
- 9.47. The Councils Environmental Health Service have not raised any objection with respect to shadow flicker.
- 9.48. Overall, the assessment of shadow flicker indicates that there would be no significant detrimental effect on residential amenity, which could be ensured by appropriate planning condition.

#### **Construction Dust**

- 9.49. SAC's Environmental Health Service have advised on conditions to limit the creation of dust during the construction and operation of the proposal, to protect residential amenity. Prior to the commencement of development, the applicant would be required to submit a Dust Management Plan to minimise the emission of dust.

### Conclusion on residential amenity assessment

- 9.50. Overall, whilst there are no significant issues identified, there are sufficient controls through proposed planning conditions that can mitigate potential significant impacts on noise and dust. In addition, a planning condition is proposed which would ensure mitigation is provided for any property which might experience an impact with regards shadow flicker. The impact on the nearest properties would not be so significant as to be unacceptable particularly when weighted against the benefits of renewable energy in tackling the climate crisis. The proposal is therefore considered to accord with the NPF4 Policy 11 in this regard.

### Criteria e(ii) Landscape and Visual Impact

- 9.51. **NPF4 Policy 4 - Natural Places** aims to protect, restore and enhance natural assets making best use of nature-based solutions. Under this criterion, NPF4 sets out that significant landscape and visual impacts needs considered, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable. The policy is also clear that development proposals that affect a site designated as a landscape area in the LDP will only be supported where it will not have a significant adverse effect on the integrity of the area or the qualities for which it has been identified. **NPF Policy 11 - Energy** also sets out that development proposals that impact on international or national designations will be assessed in relation to Policy 4.
- 9.52. **LDP2 Policy Landscape Quality** aims to maintain and improve the quality of South Ayrshire's landscape and its distinctive local characteristics. Proposals for development must conserve features that contribute to local distinctiveness, including:
- a. Community settings, including the approaches to settlements, and buildings within the landscape;*
  - b. Patterns of woodland, fields, hedgerow and tree features;*
  - c. Special qualities of river, estuaries and coasts;*
  - d. Historic and cultural landscape;*
  - e. Geodiversity of the area;*
  - f. Skylines and hill features, including prominent views.*
- 9.53. The corresponding LDP2 policy outlined above seeks to maintain and preserve the local landscape qualities and characteristics by meeting criteria a-f.
- 9.54. **LDP2 Policy: Wind Energy** states the following:
- 9.55. *All proposals will be assessed against the following criteria:*
- a. They consider and respect the main landscape features and character through careful site selection, layout and overall design. Potential impacts will be mitigated appropriately to ensure that significant effects on the landscape and the wider area are minimised;*
  - b. They do not have a significant detrimental visual impact, taking into account views experienced from surrounding residential properties and settlements, public roads and paths, significant public viewpoints, and important recreational assets and tourist attractions.*
- 9.56. Criterion (a) and (b) of the Wind Farm Energy Planning Policy Guidance provides advice on landscape character and visual impacts, which states:
- 9.57. The Council will support proposals if:
- *They are capable of being accommodated in the landscape in a manner which respects its main features and character (as identified in the South Ayrshire Landscape Wind Capacity Study or in any subsequent updates to that study), and which keeps their effect on the landscape and the wider area to a minimum (though careful choice of site, layout, and overall design and;*
  - *They do not have a significant detrimental visual impact, taking into account views experienced from surrounding residential properties and settlements, public roads and paths, significant public viewpoints and important recreational assets and tourist attractions.*

9.58. The following LDP2 Policies are also applicable:

- **Strategic Policy 1: Sustainable Development**
- **Landscape Quality**
- **Dark Skies**

9.59. Before assessing the landscape and visual impact of the development, it is important to set out the policy hierarchy and context for assessment following the adoption of NPF4 in February 2023 and LDP2 in August 2022.

9.60. Prior to 2023, the main policy assessment was based on the LDP (2017) and the Supplementary Guidance: Wind Energy (now non-statutory Planning Policy Guidance (PPG)) which formed part of the Development Plan at that time. The LDP and PPG contained a spatial framework which was drafted in accordance with the criteria for wind farm capacity set out within Scottish Planning Policy (SPP)(2014).

9.61. Following adoption of LDP2, The Wind Energy Supplementary Guidance is no longer 'Supplementary' Guidance and not part of the Development Plan. It is however Planning Policy Guidance (PPG) and remains a material consideration. Following the adoption of NPF4 this now forms part of the Development Plan along with LDP 2. SPP (2014) is no longer relevant including the spatial framework within it.

9.62. While Section 25 of the Planning Act does not apply to the determination of this application, the policies within the Development Plan are significant material considerations and used as the basis for assessment because they are land use policies and this is a land use proposal. For assessing the visual and landscape effects of this development as NPF4 is the newest document in the Development Plan, and if it is any conflict with LDP2 in terms of assessment weighting or criteria, NPF4 should be given the greatest weight.

9.63. The policies discuss situations in which windfarms should not be supported. **NPF4 Policy 11** also outlines that localised impacts are to be expected of energy development and generally this should not render a proposal unacceptable. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;

#### **Proposal and Design Overview**

9.64. The proposed development comprises 10 turbines up to 200m high to blade tip, a Battery Energy Storage System and other ancillary infrastructure lying approximately 2.2km to the south-west of the settlement of Straiton. Four of the turbines would require visible aviation lighting comprising red 2000 candela visible aviation lights attached to the hubs. These lights would be dimmed to 200 candelas during clear atmospheric conditions. The horizontal angle of lighting will be restricted, reducing intensity when seen from lower elevations. The proposed development would be located in a productive coniferous forest. 118.1ha of felling would be required in advance of constructing the proposed development. The area of conifer woodland would decrease by 75.4ha if site access Option 1 is pursued. 82ha of conifer woodland would be removed if site access Option 2 is pursued. The area of unplanted ground would increase and as a result there would be a net loss of 52.3ha or 60.9ha of woodland area, depending on the access option chosen. The closest operation wind farm to the development is Dersalloch, located approximately 4km to the east of the proposed development.

9.65. The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) **EIAR Chapter 6**, which summarises the baseline and assesses landscape and visual effects separately, followed by an assessment of cumulative effects. This focuses on likely significant effects that may arise from the proposed development. In addition to the summary, the LVIA is also supported by a suite of figures, viewpoint photomontages and a number of appendices.

9.66. The LVIA suggests that significant effects would be experienced on parts of the landscape within approximately 8 km from the site. Not including the 10 viewpoints that are predicted to experienced significant effects, the LVIA identifies 58 landscape visual and receptors that would be subject to significant effects, the large majority of which, are major ones. In relation to landscape, major effects are defined in the LVIA method as, "*substantial changes affecting the character of the landscape or the elements therein*" and for visual effects, "*The Proposed Development results in substantial changes in the view and may become a defining influence or key focal point in the view.*"

- 9.67. Expert assessment of the LVIA impacts of the proposed development has been provided by the Council's appointed Landscape Consultant, Douglas Harman, and is detailed in their Landscape and Visual Consultation Response. Overall, they consider that the LVIA does not provide a fully robust and rigorous assessment of the likely significant effects upon the landscape and visual interest of the study area and does not include an explicit assessment of the effects on the special qualities of the Water of Girvan Local Landscape Area, within which the site lies.

#### **Effects on Landscape character**

- 9.68. The 2018 South Ayrshire Landscape Wind Capacity Study (SALWCS) provides strategic information and guidance on wind energy development. Although the study dates back to 2018, it is considered to provide an important baseline of key sensitivities to consider. The proposed development would be sited within the Foothills with Forestry and Wind Farms Landscape Character Type (LCT) identified in this study. The increased scale, simple landform and land cover and sparsely settled nature of this LCT generally reduces susceptibility to larger turbines, although potential landscape and visual constraints relate to the relative narrowness of this upland landscape and its close proximity to adjacent smaller-scale and more sensitive valleys.
- 9.69. It is especially relevant that this proposal lies in very close proximity to the upper Girvan valley which is classified as the Intimate Pastoral Valley LCT. This is a small-scale and diverse landscape of high sensitivity to wind farm development of this size, and as such, the study notes, "*Turbines should be well set back from the more sensitive outer edge of these foothills to avoid significant impact on the 'landmark' hills which form highly visible containing edges to the smaller-scale settled Stinchar and Girvan Water valleys and to reduce cumulative effects on these valleys.*"
- 9.70. The location and size of turbines within this proposal would result in significant adverse effects arising on parts of the following sensitive LCTs, which lie within or in close proximity to the proposed wind farm site:
- 9.71. **Foothills with Forestry and Wind Farms:** The majority of the site is located within this LCT, and the introduction of very large turbines would appear dominant within a prevailing open and undeveloped part of the landscape. As clearly illustrated in viewpoints 2 and 4, the turbines would overwhelm the scale of the landform and compromise the skyline of distinctive undulating summits. The significant variation in the landform of the site and the resulting heights of turbines also extenuates these effects. Although partly affected by forestry, these hills provide scenic backdrops to the surrounding lower-lying landscape and therefore, the proposed development would also compromise this function. As such, a major effect is predicted within approximately 5 km, reducing to moderate-major between 5-10 km.
- 9.72. **Pastoral Valleys:** As illustrated in viewpoint 1, the turbines would appear very prominent on the nearby skyline. This would compromise the scenic containing backdrop to the valley, and their very large size would overwhelm the scale of the valley side landform, and the land use pattern within it. The proposed development would also substantially erode the strong sense of rural character and tranquillity, and the high scenic quality that underpins its distinctive sense of place. As such, a major effect is predicted and given the large extent of visibility across this small LCT, the proposed development would be determinantal to its integrity.
- 9.73. **Middle Dale:** Similar to the pastoral Valleys LCT, the turbines would tend to appear very prominent on the skyline, thus overwhelming the scenic containing backdrop to this landscape. Viewpoints 3, 5-7 and 12 illustrate this point. The turbines would also substantially erode the strong sense of rural character and tranquillity, and the high scenic quality that underpins its distinctive sense of place. Consequently, a major effect is predicted within approximately 5 km, reducing to moderate-major between 5-10 km. Given the large extent of visibility across this LCT, these effects are judged to be determinantal to its integrity.
- 9.74. **Low Hills:** As illustrated in viewpoint 9 (Maybole), the turbines would appear prominent on the skyline that provides a scenic backdrop to the intervening lower-lying landscape. For similar reasons to the changes predicted on the Pastoral Valleys and Middle Dale LCTs, the effect at this distance is judged to be moderate-major.

## **Effects on landscape designations and other valued landscapes**

### *South Ayrshire Local Landscape Areas*

- 9.75. The proposed development mostly lies within the Water of Girvan Local Landscape Area (LLA). This LLA has a settled, pastoral character. The setting for the landscape is formed by the ridges of high land which frame the valley. Some of the ridges have strongly undulating forms which create distinctive horizons and are capped with moorland. The openness of the hills contrast with farmed and heavily wooded slopes and the undulating valley floor, contributing to the scenic composition of this landscape. This proposal would be visible in the vicinity of the upper Girvan valley between Straiton and Tairlaw, dominating the intimate scale and detracting from the rich scenic composition of this part of the LLA. It would also diminish the sense of seclusion and timelessness that is associated with this valued landscape. The proposals would also be highly visible from the north and west of the LLA, notably from the historic conservation villages of Straiton, Crosshill and Kirkmichael, sited within and which add to the distinctiveness of this LLA.
- 9.76. Taking the significant impact on the LLA into account, alongside the widespread significant landscape effects predicted above on the Pastoral Valleys, Middle Dale and Low Hills LCTs, and that the proposed development would detract from, or in some instances compromise, a large number of special qualities that underpin this highly scenic landscape, a major effect is predicted. Considering all of these factors, the effects are judged to be detrimental to its integrity.

## **Effects on Views**

### *General visibility of the Proposal*

- 9.77. The site of the proposed development comprises of forested hills which descend towards and overlook the Water of Girvan and the broader valley to the north. From this valley the proposed turbines would be seen in front of and/or closer to the viewer than the operational wind farm sites of Hadyard Hill and Dersalloch and would be notably more prominent in views.
- 9.78. Within approximately 5 km from the proposed development, the turbines would tend to appear very prominent on the skyline, occupying a relatively large part of the view, particularly when viewed from the north, west and east and the nearby settlement of Straiton and all recreational routes within this are. The varying turbine elevations would also result in a complex and very unbalanced composition, and with uncharacteristic elements introduced, there would be a major change to the view. The highly intrusive turbines would also introduce a major visual focus that detracts from the important focus towards the scenic valley sides and the associated backdrop of distinctive rolling hills and uninterrupted skyline. As such, these effects are considered to be detrimental to views and visual amenity.
- 9.79. Within approximately 5-10 km from the proposed development, the turbines would tend to appear quite prominent on the skyline, occupying a moderate proportion of the view, particularly from the north and west, including the settlements of Kirkmichael and Crosshill. The varying turbine elevations would also result in a complex and very unbalanced composition, and with uncharacteristic elements introduced into this part of the view, there would be a very noticeable change. At these distances, the turbines would introduce an intrusive visual focus that detracts from the important backdrop of distinctive rolling hills and uninterrupted skyline.
- 9.80. Between approximately 5-10 km, the proposed development would tend to appear conspicuous on the skyline, occupying a small to moderate proportion of the view. The varying turbine elevations would also result in a complex and very unbalanced composition, and with uncharacteristic elements introduced into this part of the view, there would be a clearly noticeable change. The turbines would also introduce an intrusive visual focus that detracts from the important backdrop of distinctive rolling hills and uninterrupted skyline, which is apparent from the settlement of Maybole, approximately 8.7km from the proposed development (EIAR Viewpoint 9).

9.81. The majority of the representative viewpoints within South Ayrshire assessed in the LVIA lie within 10km of the proposed wind farm as can be seen on **EIAR Figure 6.6**. The Council's landscaping consultant has concluded that the significance of landscape effects is predicted to extend out to approximately 10 km, and for visual effects, approximately 15 km. The Council consider that the most significant adverse visual effects would be likely to affect views from:

- Significant adverse effects would arise from Craigengower Hill, approximately 3.1km to the east of the proposed turbines, where the walk up to the Colonel Hunter Blair Monument (Core path SA47) is a popular activity (**EIA Report Viewpoint 2**). The size and proximity of turbines will result in them being a prominent distracting feature coming over the ridge of the existing hilltops northwards down into the valley. A similar impact will arise at Barony hill, through which Core path SA41 passes, which lies approximately 3km to the west of the proposed turbines (**EIAR Viewpoint 8**).
- The road between Straiton and Newton Stewart where it is aligned in the upper Girvan valley, as illustrated by the visualisation from Craig (**EIAR Viewpoint 1**) where the very large turbines of the proposal would introduce new views of wind farm development, and the turbines would overwhelm the scale of features in views from this road. This proposal would also be seen in views from Core Path SA47 and The Monument and Bennan Circuit which pass through this viewpoint. For context, the viewer elevation at this viewpoint is approximately 123 metres AOD, at distance of approximately 2.2km from the development. Taking into account the elevation of the landform on which the highest turbine would be located (Turbine 9, approximately 343 metres AOD), this would extend around 420 metres above the viewer's eye level.
- Significant adverse effects would arise from the closest settlement of Straiton (**EIAR Viewpoint 3**). This is due to the elevation of the receiving landform at the proposed site taken together with the large size of the proposed turbines. The proposed turbines shall come over the ridge line northwards into the valley toward Straiton. This is apparent from both Newton Stewart Road (**EIAR Viewpoint 17**), immediately to the south of the settlement, and Dalmellington Road/B741 (**EIAR Viewpoint 18**).
- A further location which would experience significant adverse effects would be on the B7045 Altizourie (**EIAR Viewpoint 4**) between Kirkmichael and Straiton. This viewpoint is approximately 4.3km to the north of the proposed development. The dominant appearance of the turbines within this open and undeveloped landscape are apparent from this viewpoint, particularly given the variation in landform of the site and the resulting variation in turbine heights. Turbines 4, 7 and 9 appear stacked together from this location. This proposal will also be seen in views from Hill Wood Walk which passes through Altizourie.

#### *Effects of Visible Aviation Lighting*

9.82. In terms of the aviation lighting impacts, the Council have considered the assessments provided included the Aviation Lighting Report (**EIAR Appendix 16.1**) which has been prepared on behalf of the applicant by 'Wind Power Aviation Consultants Ltd' alongside **Appendix 6.5** 'Aviation Lighting Assessment' which forms part of the overall EIA Report. Both these assessments include consideration of the lighting requirements for the development, the operational requirements of the lighting alongside the opportunities for additional mitigation to offset landscape and visual impacts of the lighting itself. In terms of the mitigation, the assessments set out that should the regulatory process allow, the applicant would seek to deploy mitigation options, including an Aircraft Detection Lighting System (ADLS), which would allow the otherwise visible medium intensity turbine lights to be switched off for the vast majority of the time and activated only on those rare occasions in this location when an aircraft activates the system. The reports and assessment advise that a suitably worded planning condition will enable the future lighting effects to be mitigated to the extent of becoming almost non-existent.

9.83. The Council's Visual and Landscaping consultant also provided comments regarding the likelihood of adverse visual impact arising from the proposed aviation lighting. Taking into account the existing dark skies of the local landscape, moderate-major effects are likely to be experienced on most receptors that have open views of the landscape within approximately 5 km from the site. This includes a number of individual residential properties, the settlement of Straiton and the users of walking routes including The Monument and Bennan Circuit and the walk up to the Colonel Hunter Blair Monument (Core path SA47). However, no significant adverse effects are likely on these receptors.

*Comparison with consented Craiginmoddie and Knockcronal wind farms*

- 9.84. Although each application should be judged on its own merits, the recently consented wind farms of Craiginmoddie and Knockcronal, (both of which include turbines with tip height up to 200m, are located in approximately 2km the south-west and abutting the south-east of the proposed development, respectively. As such, it is useful to consider the main differences in appearance between these two consented developments and that of the current proposals.
- 9.85. The site of the proposed development is located further away from the High Carrick Hills and the Stinchar Valley Local Landscape Areas, as well as the Merrick Wild Land Area. As such, effects on these landscapes are likely to be of lesser significance than those predicted for the consented projects. However, since the site of the proposed development lies within the Water of Girvan Valley Local Landscape Area (LLA), the effects on this designation would be noticeably greater. Positioned on prominent hills to the north of the two nearby consented projects, the proposed development would also be significantly more visible from a large area of the lower-lying landscape to the north, west and east of the site, where the main settlements of the LLA are located. Consequently, both the significance of effects experienced by a wide range of landscape and visual receptors - and the geographical extent of those effects - would be considerably greater.
- 9.86. The following viewpoints, discussed in more detail earlier, also provide a visual representation of how prominent the proposed development would appear from the north, west and east of the site, when compared with both nearby consented windfarms:
- Viewpoint 1 - Upper Girvan Valley, Craig;
  - Viewpoint 2 - Craigengower Monument;
  - Viewpoint 3 – Straiton;
  - Viewpoint 4 - B7045 Altizourie;
  - Viewpoint 5 - Kirkmichael;
  - Viewpoint 6 - Crosshill;
  - Viewpoint 7 - B741 Ruglen;
  - Viewpoint 8 - Barony Hill;
  - Viewpoint 9 - Maybole;
  - Viewpoint 17 - Straiton, Newton Stewart Road; and
  - Viewpoint 18: Straiton, Dalmellington Road.

**Cumulative landscape and visual effects with other consented or application stage wind farms**

- 9.87. In assessing combined and sequential effects, the LVIA focusses on the relationships of the proposed development with the application sites of Craiginmoddie, Carrick, Knockcronal and Scienteuch. As previously outlined, Craiginmoddie and Knockcronal are now consented, and Carrick has been refused. Scienteuch also recently received consent in December 2025. Scienteuch shall be located approximately 4.5km to the north east of the proposed development. The applicant has concluded that this would be a standalone development, relative to the proposed development, and the Council agrees with this conclusion.
- 9.88. In relation to landscape receptors, the introduction of both or either of the consented Craiginmoddie and Knockcronal developments would tend to lead to a significant increase in the extent of highly intrusive visible development, thus overwhelming the containing backdrop to nearby lower-lying landscapes and their associated rural character. Significant adverse cumulative effects would likely occur on the character of the Intimate Pastoral Valley LCT of the upper Girvan, where this proposal would be seen together with the consented Knockcronal Windfarm. Consequently, the hills that would accommodate these developments, along with their low-lying surroundings, would become a wind farm landscape. As such, a substantial effect is predicted within approximately 5 km, reducing to major between 5-10 km, and moderate-major out 15 km.

- 9.89. With regard to visual effects, there would be a very major introduction of visual clutter on a currently undeveloped part of the skyline. This would compromise the important views towards the hills and would occupy a very large part of the view, with a complex and very unbalanced composition. Views from the minor road between Straiton and Newton Stewart where this proposal would be seen simultaneously with the consented Knockcronal wind farm between Straiton and Stinchar Bridge would likely result in significant adverse cumulative effects. Significant adverse cumulative effects are also likely to occur on popular walking routes including from Craigengower Hill near Straiton, where the proposal would tend to be seen simultaneously with the consented Knockcronal and Craiginmoddie Wind farms in these views. As such, a substantial effect is predicted on most receptors within approximately 5 km, reducing to major between 5-10 km, and moderate-major out to 15 km.
- 9.90. Overall, it is concluded that significant adverse cumulative effects are likely in respect to a large number of landscape and visual receptors within 10km of the proposed development.

### **Tourism and Recreation**

- 9.91. The tourism sector is important to the South Ayrshire economy with a significant potential for growth. This expansion will be dependent on the maintenance and enhancement of environmental quality whilst ensuring that the assets on which the sector is based are protected from the impacts of inappropriate development. These objectives are reflected within the policy framework of LDP2.
- 9.92. Assets in South Ayrshire and surrounding areas particularly sensitive to inappropriate development include areas designated for their scenic or recreational potential, such as the Galloway Hills, the Galloway Forest Park, the Dark Skies Park and the Galloway & Southern Ayrshire Biosphere and its associated ecosystem centred around a series of core Natura sites. The application site is located within the transition zone of the Galloway and Southern Ayrshire Biosphere and is approximately 7km south east of the Merrick Wild Land Area (WLA). As the proposed development is not within a Wild Land Area, the effects of the proposed development on the qualities of the wild land area will not be a significant consideration. This applies to the application individually and cumulatively along with other applications affecting the Merrick WLA.
- 9.93. The Council's Outdoor Access Officer did not object to the proposal but also noted that the area is very popular with visitors and local residents for outdoor activities, noting tourists and visitors to the area are a vital support to the fragile economies of rural communities. The Council's Outdoor Access Officer noted that although there are no designated recreational routes within the boundary of the site, there are a number of core paths, cycle routes, trails and rights of way in the area immediately surrounding the site, which are well used by both local residents and visitors.
- 9.94. The applicant's LVIA identifies numerous recreational routes where significant adverse visual effects will occur as a result of the proposed development, as discussed above. These include several Core Paths, locally promoted walks and hill summits within 5km, particularly to the north, east and west of the site. Users of these walking routes would experience close views of the turbines above Knockskae, Cawin Hill and Clauchrie Hill defining the southern and western side of the Water of Girvan.
- 9.95. The Council's Visual and Landscaping consultant outlined that within the applicant's LVIA methodology (see **Appendix 6.1**), the effects on views from local paths (Core Paths and locally promoted paths) beyond approximately 5 km have been scoped out of the assessment. As the Council's consultant has concluded that it is very likely that significant visual effects could be experienced beyond these distances, the exclusion of these assessments means that all potentially likely significant effects have not been fully considered.
- 9.96. Overall, the scale of the proposed wind turbines and their elevation position would cause them to appear overly dominant to recreational users within 5km of the site, including 9 footpaths and 2 hill summits, and beyond. As such, it is considered that there is potential for tourists, visitors and local residents to be dissuaded from visiting recreational routes within the area due to the presence of this wind farm. This is due to the significant adverse impacts identified above being considered to be detrimental to both views and visual amenity.

### **Wild Land and Dark Sky Effects**

- 9.97. As previously discussed, the impact on Wild Land and specifically the Merrick WLA is not a significant consideration due to NPF4 Policy 4 part (g), which does not give significant consideration to effects of development outwith wild land areas.
- 9.98. With respect to the UNESCO Biosphere, the EIAR concluded that the Biosphere would not be negatively impacted due to being located outwith the 'core area' of the Biosphere and is supported by the conclusions of the Landscape and Visual Assessment. It is noted that Crosshill, Straiton and Kirkmichael Community Council raised concerns that the proposed development that would potentially have a negative impact on the Biosphere.
- 9.99. LDP2 Policy Dark Skies supports the Galloway Forest Dark Sky Park designation and presumes against development proposals that would adversely affect its 'dark sky' status. The proposed development site lies outwith both core and transition zone of the Dark Sky Park. This zone is advisory and intends to protect the night time environment within the Dark Sky Park itself from light pollution emanating from this zone.
- 9.100. It is noted that the consultation response from Crosshill, Straiton and Kirkmichael Community Council expressed concern at the potential adverse impact on the Merrick Wild Land Area and Dark Sky Park.
- 9.101. The proposed development requires lighting on four of the outer proposed wind turbines. A reduced lighting scheme has been agreed with the Civil Aviation Authority. The impact of the lighting is assessed in **EIAR Appendix 6.5**. The assessment concludes that there would be no significant effects on the Dark Sky Park designation. As a result of the mitigation applied to the aviation lights, the proposed turbines would not result in sky glow similar to that given by streetlights and properties from settlements. The assessment also notes a minor visual effect to the western side of the core of the Dark Sky Park, which includes Cornish Hill. Overall, the assessment concludes there would be no significant effects on the Dark Sky Park designation.
- 9.102. The Council's Landscape and Visual consultant note that the site of the proposed development is not within either the core or transition zone of the Dark Sky Park and is distant from Merrick WLA. However, taking into account the existing dark skies of the local rural landscape, moderate-major effects are likely to be experienced by most receptors which have open view of the site. However, effects no significant effects are likely on either the WLA or Dark Sky Park.
- 9.103. Overall, the proposal is not considered to result in a significant adverse effect on the Merrick Wild Land Area or Dark Sky Park, provided the requested mitigation is implemented.

### **Conclusion on landscape and visual impact**

- 9.104. The proposed development mostly lies within the Water of Girvan Local Landscape Area (LLA). This proposal would be visible in the vicinity of the upper Girvan valley between Straiton and Tairlaw, dominating the intimate scale and detracting from the rich scenic composition of this part of the LLA. It would also diminish the sense of seclusion and timelessness that is associated with this valued landscape. The proposals would also be highly visible from the north and west of the LLA, notably from the historic conservation villages of Striation, Crosshill and Kirkmichael, sited within and which add to the distinctiveness of this LLA.
- 9.105. Taking the significant impact on the LLA into account, alongside the widespread significant landscape effects predicted above on the Pastoral Valleys, Middle Dale and Low Hills LCTs, within and adjacent to this LLA, and that the proposed development would detract from, or in some instances compromise, a large number of special qualities that underpin this highly scenic landscape, a major effect is predicted. Considering all of these factors, the effects are judged to be widespread and significantly adverse on the integrity of this LLA.

- 9.106. Within approximately 5 km from the proposed development, the turbines would tend to appear very prominent on the skyline, occupying a relatively large part of the view, particularly when viewed from the north, west and east and the nearby settlement of Straiton. Within this distance, significant adverse effects would arise from viewpoints including Craigengower Hill, where the walk up to the Colonel Hunter Blair Monument (Core path SA47) is a popular activity and Barony hill, through which Core path SA41 passes. The road between Straiton and Newton Stewart where it is aligned in the upper Girvan valley, at Craig, through which Core Path SA47 and The Monument and Bennan Circuit which pass through, would also be overwhelmed by views of the turbine.
- 9.107. Within approximately 5-10 km from the proposed development, the turbines would tend to appear quite prominent on the skyline, occupying a moderate proportion of the view, particularly from the north and west, including the settlements of Kirkmichael and Crosshill. At these distances, the turbines would introduce an intrusive visual focus that detracts from the important backdrop of distinctive rolling hills and uninterrupted skyline, which would be apparent from the settlement of Maybole.
- 9.108. A site visit was carried out to assess the potential visual impact of the development on the 13 of the most significantly affected residential properties (RVAA properties 1-2, 7-8, 13-17, 20-22 and 25). Subject to mitigation, the proposed development is not considered to breach the Residential Visual Amenity Threshold at any of these properties, for the reasons outline elsewhere within this report.
- 9.109. Whilst the applicant's LVIA identifies significant effects out to approximately 8 km, the preceding appraisal predicts that effects are much more likely to be experienced out to approximately 15 km, as far as Brown Carrick Hills approximately 14.9km to the north west of the proposed development. Considering the large proportion of the landscape to the north, east and west affected, this is not considered to be a localised area.
- 9.110. In considering the acceptability of significant adverse effects, it is important to note that the large majority of significant effects that the applicant predicts within their LVIA are the highest end of the significance threshold (i.e. major). As stated in the applicant's LVIA methodology, this means that there would be substantial changes affecting the character of the landscape, and to views and visual amenity. The landscape, visual and cumulative effects identified are considered to be detrimental to the Intimate Pastoral Valleys LCT, the Middle Dale LCT, the Water of Girvan LLA, and to the views and visual amenity of people living, enjoying and travelling through the landscape within approximately 5 km from the proposed development.
- 9.111. Overall, it is considered that the development does not comply with NPF4 Policy 11 Criteria (e)(ii) or Policy 4 para. (d) as the significant landscape and visual impacts are not considered to be localised and will result in significant adverse effects on the integrity of the LLA.

**Criteria (e)(iii) – Public access including impact on long distance walking and cycling routes and scenic routes**

- 9.112. **NPF4** requires consideration of the impact on long distance walking and cycling routes and scenic routes.
- 9.113. The following LDP2 policies are also applicable:
- **Strategic Policy 1: Sustainable Development**
  - **Land use and Transport.**
- 9.114. There are no designated recreational routes within the boundary of the site. The applicant considers that the proposal would result in limited minor impacts on recreational routes during the construction phase but that this could be mitigated by an outdoor access signage strategy secured through an appropriate condition, if consent is granted.
- 9.115. **EIAR Chapter 6 - Landscape and Visual Impact Assessment** concluded that eleven routes would be significantly affected, the visual impact on these routes has been considered in greater detail in the proceeding section. However, the consequent impact of this is considered as negligible by the applicant, given that **EIAR Chapter 13 Socio-Economics** also concluded that there is no discernible relationship between the development of wind farms and tourism and recreation.

- 9.116. The Council's Outdoor Access Officer noted that although there are no designated recreational routes within the boundary of the site, there are a number of core paths, cycle routes, trails and rights of way in the area immediately surrounding the site, which are well used by both local residents and visitors. They have highlighted that the proposal is an opportunity to significantly improve outdoor access and links with the existing network of trails and the national cycle route. It is acknowledged that it may be difficult for the applicant to achieve this as could require agreement from other landowners. However, the provision of improved signage and other features recommended by the Outdoor Access Officer could be secured via conditions, in order to ensure existing public access routes are protected and enhanced.
- 9.117. Overall, with regard to the impact on public access to recreational routes (with the visual impact the preceding section Criteria (e)(ii)), mitigation is proposed by way of additional signage through the construction phase of the development. No significant negative impacts on the public physically accessing recreational routes have been identified and the proposal therefore complies with NPF4 Policy 11 Part (e)(iii).

**Criteria (e)(iv) – Impacts on aviation and defence interests including seismological recording**

- 9.118. **NPF4** requires applicants to set out how the project design and mitigation will address impacts on aviation and defence interests including seismological recording.
- 9.119. **LDP2 Wind Energy Part (h):**
- "They would not adversely affect aviation safety or defence interests, as well as telecommunications and broadcasting installations, ensuring in particular that transmission links are not compromised."*
- 9.120. The Wind Energy Planning Guidance 2015 requires developers to demonstrate agreement between them and airport operations that a technological or other mitigation solution is in place which would not threaten the current operation of the airport or expansion aspirations. LDP2 Policy on Wind Energy states that the Council will only support proposals if they do not adversely affect aviation. NPF4 does not require mitigation to be agreed with the aviation authorities or airport operators but does require the proposal to set out how these matters will be addressed or mitigated.
- 9.121. **EIAR Chapter 16 – Aviation and Radar** advises that the proposed development could potentially affect the operation of Glasgow Prestwick Airport (GPA) on the basis that six of the turbines will be visible to the Primary Surveillance Radar and the turbines may impact on Instrument Flight Procedures. No other aviation-related issues have been identified.
- 9.122. GPA lodged a holding objection on grounds of aviation safety concerns; however, they are currently engaged with the developer, with an expectation that a resolution to the aviation safety issues will be achievable. **EIAR Chapter 16** confirms that technical solutions are available to mitigate the potential impacts, and such matters can be appropriately managed through suitably worded planning conditions.
- 9.123. NATS Safeguarding and Glasgow Airport did not raise any objection to the proposal. **EIAR Chapter 16** confirms that the applicant has proposed visible aviation lighting in accordance with a Civil Aviation Authority (CAA) approved lighting strategy, and details of this are contained in **EIAR Appendix 16.1**. All 10 proposed wind turbines require non-visible infra-red aviation lighting to satisfy MOD low flying requirements.
- 9.124. The Defence Infrastructure Organisation (DIO) does not object to the proposal, subject to the conditions set out within their consultation response. The MOD require a condition that the development is fitted with aviation safety lighting, approved by the Scottish Government in conjunction with the CAA and the MOD.
- 9.125. Additionally, the proposed development lies outwith the 50km consultation zones in relation to the Eskdalemuir seismic array. Impacts on seismological recording is therefore not an issue for consideration.

### **Conclusion on aviation and defence interests including seismological recording**

- 9.126. It is considered that the proposed development has set out how these matters will be addressed and mitigated in accordance with NPF4. The lack of agreed mitigation is not considered a matter which should result in South Ayrshire Council objecting to this application. If the mitigation measures were found to be unachievable in the future, then this would be a matter for the ECU to resolve or revert back to the South Ayrshire Council for further comment. A resolution between the applicant and GPA is expected and the only other mitigation required can be controlled through planning conditions. The proposal at this stage is therefore considered to comply with Criteria (e)(iv).

### **Criteria (e)(v) – Impacts on telecommunications and broadcasting installations**

- 9.127. **NPF4** sets out that it should be set out how the project design and mitigation will address impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised.
- 9.128. **LDP2 Wind Energy Part (h):**
- “They would not adversely affect aviation safety or defence interests, as well as telecommunications and broadcasting installations, ensuring in particular that transmission links are not compromised.”*
- 9.129. **EIAR Chapter 17 – Telecommunications** outlines the consultation undertaken with infrastructure and telecommunications network operators. No telecommunication links within the search area have been identified. A utility search identified no electricity lines within the site boundary.
- 9.130. Consultation responses from the Joint Radio Company and British Telecom raised no issues of concern. In the unlikely event that issues do arise, it is a matter that may be mitigated by appropriate planning conditions.

### **Conclusion on telecommunications and broadcasting**

- 9.131. Overall, there are no significant impacts on telecommunications and no consultees have raised any significant concerns. The proposal therefore complies with NPF4 Policy 11 part (e)(v).

### **Criteria (e)(vi) – impacts on road traffic and on adjacent trunk roads, including during construction**

- 9.132. The relevant policies are:
- **NPF4 Policy 13 – Sustainable Transport** - Seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
  - **LDP2 Policy: Land use and Transport part (b)** - Take appropriate measures to keep any negative effects of road traffic on the environment to a minimum.
  - **Wind Energy Planning Policy Guidance part (c)** – aims to protect residential amenity in terms of traffic and transport routes.
- 9.133. **EIAR Chapter 12 – Access, Traffic and Transport** concludes that there will be no significant traffic effects associated with the proposed development with the incorporation suitable mitigation measures such as a Construction Traffic Management Plan (CTMP) prior to works commencing.
- 9.134. Construction access to the proposed development will either be taken from the B7024 from Maybole and Crosshill, from the west via the B741 or from the east from the A713 via the B741 from Dalmellington to Straiton. Both options provide local access from the A77 and A76 trunk roads and the A713. The applicant advises that development traffic at the peak of construction (months 11 and 12) would result in approximately 15 HGV movements and approximately 34 total vehicle movements per day between all of the road links to be used to transport turbine components. The applicant does not expect road capacity issues on any of the roads within the study area as a result of the proposed development due to the low background traffic movements and the implementation of appropriate mitigation through the CTMP.

- 9.135. The development proposals have provided an indicative construction programme within **Appendix 12.2** which suggests that the Abnormal Indivisible Load (AIL) movements associated with turbine component deliveries would take place over a period of 6 months (January 2029 – June 2029). The proposed principal route for AIL deliveries includes use of the B7023/ C88 Dalhowan Street through the village of Crosshill. An alternative route for AIL delivery components, excluding blades, has also been suggested, which would see components using the following route: A77(T)/ B77 Cassillis Road/ Kirkland Street/ B7023 before then joining the proceeding route option from this point.
- 9.136. Transport Scotland (TS) are satisfied that the increase in traffic associated with construction of the development will not exceed the threshold present in the IMEA guidelines and no further assessment is required. TS has requested four planning conditions, the first is the submission of the proposed route for any abnormal loads on the trunk road network, to be approved by TS prior to the commencement of development. The second is the approval by TS of any required abnormal load accommodating measures prior to the movement of any abnormal load. The third is the approval by TS of a QA traffic management consultant for any additional sign or temporary traffic control measures prior to the movement of any wind turbine components. The fourth is the submission of a Construction Traffic Management Plan (CTMP) to be approved by the Planning Authority in consultation with TS prior to the commencement of development.
- 9.137. Initially, the Ayrshire Roads Alliance (ARA), as the Local Roads Authority, raised an objection to the proposal. With regard to the proposed principal route for AIL deliveries (set out in para. 9.134), the ARA noted that to safely accommodate the AIL movements, a Temporary Traffic Regulation Order (TTRO) would be required to suspend all on-street parking on the B7023 and C88 within the village of Crosshill. From a desk-based survey the ARA estimated that this would in turn lead to the required displacement of at least 80 vehicles and lead to significant disruption over the 6-month period required for the AIL movements associate with turbine components.
- 9.138. In response to the ARA, the applicant provided additional information on 18<sup>th</sup> November 2025. This clarified that the AIL deliveries would be undertaken over a limited number of days over the course of the 6 months, lessening the impact on residents. The estimates provided suggest that the total 70 AIL movements required would be spread out to approximately 12 AIL movements per month during this period, concentrated over approximately 2-3 days each month. With regard to the potential displacement of vehicles within Crosshill, the applicant also suggested that there is sufficient alternative parking available within the village to accommodate this.
- 9.139. In response, the ARA have recommended the attachment of a condition that sets out that a scheme of mitigation will be required to be agreed to address the impacts of parking displacement on the B7023/C88 Dalhowan Street route to be used by the AILs, including assurances to ensure that the local road network can continue to operate without issue during periods where traffic management measures and restrictions covered by Temporary Traffic Regulation Order (TTRO) are in place. The ARA confirmed they would no longer recommend an objection, subject to this condition being attached to any approval.
- 9.140. With regard to the proposed alternative route for AIL deliveries (set out in para. 9.134), the ARA note that this route would result in turbine components moving through the town of Maybole and would require the suspension of all on-street parking and removal of elements of street furniture and adaptation of road features. No swept path analysis has been included within the supporting information for this option; however, the ARA consider that it would likely result in significant disruption residents of Kirkland Street, Maybole. As such, the ARA have sought the attachment of a condition to any approval requiring a swept path analysis and any temporary mitigation measures required to be submitted and agreed, should this alternative route be taken forward as an option.
- 9.141. The ARA also noted that Turbine 5 is located close to the adjacent public road network (the U27). The ARA require that all turbines are located a minimum of 125% of to-tip height of the turbine from the nearest public road. As such, they have concerns that the micro siting proposals, which include a localised tolerance of 50m on turbine siting, may result on Turbine 5 potentially falling below the 125% requirement. The applicant confirmed that Turbine 5 is currently sited approximately 260m from the public road and that micro siting would be restricted to ensure this minimum distance was maintained. The ARA have sought the attachment of a condition requiring that the final siting of any turbine within the site cannot be placed closer to the public road than 125% of the “to tip” height of each individual turbine.
- 9.142. The ARA also advised on the need for other permits and consents such as Road Opening Permits and a Section 96 Agreement of the Roads Act to allow any extraordinary maintenance costs due to construction traffic be reclaimed by the Roads Authority.

- 9.143. Dailly Community Council raised concerns at the suitability of the local roadwork surrounding/through Maybole and Crosshill for AIL and other general and construction traffic. They consider that construction traffic will have a significant impact on the rural community.

**Conclusions on road traffic and trunk road impact**

- 9.144. Overall, the ARA concluded sufficient information has been provided to recommend no objection to the proposed development, provided that their suggested conditions are attached to any consent granted. In light of this, the proposal is considered to comply with Policy 11 of NPF4 and LDP2 Policy: Land Use and Transport.

**Criteria (e)(vii) – impacts on historic environment**

- 9.145. The relevant policies are:

- NPF4 Policy 7 - aims to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.
- LDP2 Policy: Historic Environment - We will protect, preserve and, where appropriate, conserve and / or enhance South Ayrshire's historic environment.
- LDP2 Policy: Archaeology - Development proposals that do not safeguard archaeological sites or resources in situ will not be supported unless it is demonstrated to the satisfaction of the Council that the benefit of the proposal outweighs the archaeological value of the site.

- 9.146. **EIAR Chapter 7 - Cultural Heritage and Archaeology** assesses potential direct and indirect physical effects and setting effects on heritage assets during construction, operation, and decommissioning. Physical impacts on three known assets, one of medium importance, one of low importance and one of negligible importance were identified. The proposed access track would pass through the Kirkbride House Non-Inventory Designated Landscape (NIDL). This asset is non-designated, and the effect would not be significant. No consultees raised any concern with respect to this impact. The applicant will agree a Written Scheme of Investigation (WSI) prior to construction works to mitigate any impacts on unknown archaeological remains within the site. The EIAR identified residual effects of minor significance of three heritage assets including the Knockinculloch Scheduled Monument and Blairquhan House (Category A-listed) and Inventory Designed Landscape (GDL). On decommissioning, these non-significant operational effects would be reversed. The assessment did not identify any significant cumulative impacts.

- 9.147. HES have no objection to the application. They are satisfied that the methodology used in the assessment is appropriate. The impacts on the integrity of the setting of the scheduled monuments in the vicinity would not be significantly adverse and would not raise issues of national interest.

- 9.148. The response from HES focuses on the impact on Knockinculloch and Blairquhan and its associated Blairquhan Inventory Designed Landscape (GDL). With regard to Knockinculloch, HES consider that the proposed development would be visible from and have an adverse impact on the setting of the monument, but this would not be of a sufficient magnitude to disrupt the integrity of the monument's setting. The nature of this scheduled monument means that long-range views are not key features of its setting. HES considered that, even with the cumulative developments taken into account, the integrity of the setting of this scheduled monument would remain intact. With regard to Blairquhan, HES agreed that the proposed development would have an adverse impact on the setting of Blairquhan and its associated GDL but concluded that this impact/effect would be low/minor. However, HES were content that the impacts from the proposed development, even if cumulative developments are taken into account, would not be of a level that would raise issues of national interest such that they would require to raise an objection to the proposals.

- 9.149. The Council's Archaeological Advisor, West of Scotland Archaeology Service (WoSAS) do not object to the proposal however and will agree a programme of mitigation to offset physical applicants with the applicant. A planning condition has been proposed to address this.

**Conclusion on historic environment impact**

- 9.150. Overall, taking into the responses from HES and WoSAS it is considered the proposed development does not raise any significant issues with respect to the historic environment and complies with policy 11 part (e)(vii).

### Criteria (e)(viii) – Effects on hydrology, the water environment and flood risk

9.151. The relevant policies are:

- **NPF4 Policy 22: Flood risk and water management** - seeks to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.
- **LDP2 Policy: Water Environment** - We support the objectives of the Water Framework Directive (2000/60/EC). We will only allow development that meets these objectives and shows that: a. It will protect, and where possible, improve the water environment; b. It will not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water); and c. It will not harm the biodiversity of the water environment. d. It seeks to avoid (or remove) instances of construction works and structures in and around the water environment; e. It provides an appropriately sized buffer strip between the development and a water course
- **LDP2 Policy: Flood and Development** - Development should avoid areas which are likely to be affected by flooding or if the development would increase the likelihood of flooding elsewhere. We will assess development proposals against the Scottish Environmental Protection Agency's (SEPA) publication 'Flood Risk and Land use Vulnerability Guidance' (2018), or subsequent updates.

9.152. The intent of the relevant NPF4 and LDP2 Policies is to ensure the water environment and ecological features are protected and improved where possible and flood risk is understood and managed to accord with SEPA's advice. Furthermore, the policies require that risks to others is not exacerbated as a result of new development in flood prone areas.

9.153. **EIAR Chapter 11 – Hydrology** considers the potential impacts of the proposed development upon geology, hydrology and hydrogeology. It is accompanied by associated appendices addressing peat landslide risk, peat management, ground dependent terrestrial ecosystems (GWDTE), private water supplies and watercourse crossing. A comprehensive suite of embedded mitigation and best practice measures has been incorporated into the design of the proposed development. Key features that had a considerable influence on site layout included peat areas and peat depth, water courses and waterbodies, potential GWDTE and private water supplies.

9.154. **EIAR Chapter 11** considers that subject to the successful implementation of the mitigation measures identified, no likely significant adverse effects relating to the proposed development in isolation are identified. No cumulative impacts were also identified. Subject to adherence to best practice construction methods to be set out in a Construction Environmental Management Plan (CEMP) and a suitable site-wide drainage strategy, the proposed development is considered to not be at risk from flooding, nor would it lead to increased flood risk elsewhere during the construction, operational or decommissioning periods.

9.155. Scottish Water has no objection to the proposal. There are no Scottish Water drinking catchments or abstraction sources in the area that may be affected by the proposed development.

9.156. Dailly Community Council have raised concerns that the proposal will have a negative impact on the local hydrological environment. Concern was also raised in respect of the potential for water contamination from felling of commercial forestry. They also considered that the applicant's risk assessment with regard to private water supplies is flawed.

9.157. The Council's Environmental Health Service have reviewed this assessment to inform overall Council considerations on these matters. In their internal response, they raise no objections with the methodology, assessment, and the conclusions of the PWS assessments undertaken. As part of their response, they confirm that they have undertaken a joint risk assessment visit with the principal consultants for the development to the PWS around the marked boundary and within the marked boundary in August 2025. Specifically, the site visit sought to further investigate if there should be any other precautions put in place to mitigate for the PWS to the residential dwellings Glenalla and The Sheiling. As a result of the visit, the Environmental Health Service confirmed that they did not consider any further action would be required. They also advised additional mitigation for these properties would be in place, regardless. Additionally, a condition requiring the submission of an Emergency Action Plan for impacts on private water supplies is recommended.

### **Conclusion on hydrology, water and flood risk**

- 9.158. Overall, the proposal would not have any significant effects on hydrology or the water environment, and the development would not be at significant risk of flooding or increase flood risk elsewhere. Planning conditions controls via the CEMP will avoid any significant pollution on the water environment during the construction process. The proposal is therefore considered to comply with Policy 11 Criteria (e)(viii).

### **Criteria (e)(ix) biodiversity including impacts on birds**

- 9.159. The relevant policies are:
- **NPF4 Policy 3: Biodiversity** - highlights the importance of nature protection, restoration and securing biodiversity enhancements to reverse biodiversity loss, deliver positive effects from development and strengthen nature networks
  - **LDP2 Policy: Natural Heritage** - Planning Permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation. Criterion (f) requires development to not have an unacceptably detrimental effect upon natural heritage, including wild land, birds and carbon rich soils.
- 9.160. The site does not form part of any statutory designated site for nature conservation with qualifying ecological interests. The nearest such designation is the Auchalton Site of Special Scientific Interest (SSSI) which is located approximately 1-1.6 km to the north west of the site. In terms of non-statutory local nature conservation designations, the Straiton Hills Provisional Local Wildlife Site (PLWS) intersects part of the north eastern boundary of the site, while the Shaws Knowe PLWS is located approximately 0.8-1.2km to the north west of the site.
- 9.161. **EIAR Chapters 9 and 10 – Ecology and Ornithology** considers that following mitigation such as the appointment of an Ecological Clerk of Works (ECow), pre-construction surveys, preparation of a CEMP and habitat enhancement post construction, there would be no significant adverse residual effects on any identified important ecological and ornithological receptors during construction.
- 9.162. SAC's appointed ecologist reviewed **EIAR Chapter 9 – Ecology** and associated appendices. They confirmed that the information provided was detailed but advised that clarity was sought from the applicant on matters relating to peatland management, GWDTEs and protected species (bats and reptiles). The applicant provided additional information in response, including an Outline Habitat Management Plan. This information is considered and incorporated in the following assessment, alongside the responses of NatureScot and SEPA, where appropriate.
- 9.163. The applicant proposes to develop a Habitat Management Plan (HMP) in consultation with relevant stakeholders and landowners and as a condition for the proposed development. An outline HMP has been prepared and submitted for consideration in November 2025, following points of clarity raised by the Council's appointed Ecologist. The three key aims of the HMP are to create and manage broadleaved woodland and wet woodland, create and manage heathland and retain and enhance blanket bog.

### Chapter 9: Ecology

- 9.164. With respect to European Protected Species, bat activity has been recorded across the site. The assessment is reasonable. However, it is noted the SAC's appointed ecologist highlighted that there were some limitations to the bat surveys which required further explanation, including further bat activity data collection and weather data reporting, as well as clarification as to why the ECOBAT tool was not used in the applicant's assessment. It is noted that NatureScot did not raise these possible limitations in their response. However, the applicant submitted additional information in November 2025 in response to the points of clarity raised by SAC's appointed ecologist. This included justification for not utilising the ECOBAT tool, as it was not available at the time of the EIAR but, regardless, a precautionary, site-wide approach was undertaken, which the Council's appointed ecologist considered appropriate.

- 9.165. NatureScot consider the bat survey information submitted to be comprehensive. They note 8 species of bats are present at the site year-round, with overall levels of bat activity at moderate to high levels, with periods of high activity. NatureScot agreed that the development presents a moderate to high risk to Leisler's and pipistrelle bats, species which are at high risk from operational wind turbines, and which are found in above average numbers at this site. Mitigating the potential effects of the development on bats is therefore a key requirement for this development.
- 9.166. NatureScot note that preconstruction survey data is not always a reliable guide to post construction bat activity and welcome the mitigation proposed by the applicant in **EIAR Chapter 9 section 9.7.3.1**. The measures proposed include a 100m minimum buffer between the turbines and potential bat habitats, additional surveys to be undertaken if the proposed development may require direct impact on any suitable bat habitats and changes to turbine blade rotation to reduce risk of bat mortalities. In response to the applicant's proposed mitigation measures, NatureScot advises that there should be a 50m buffer between the turbines and woodland edges/watercourses, turbine blades should be feathered while idling, a smart turbine curtailments strategy should be produced, a post-construction bat monitoring plan should be submitted and 3 years-post construction monitoring to determine the efficiency of the mitigation. With regard to the curtailment period required, NatureScot have advised it should be applied between 1<sup>st</sup> April to 31<sup>st</sup> October inclusive. This is different from the period outlined in the EIAR by the applicant, which was also highlighted by the Council's appointed ecologist. In the additional information submitted in November 2025, the applicant confirmed the dates in the EIAR were incorrect and that they accept the curtailment dates outlined by NatureScot.
- 9.167. With regard to other protected species, based on the findings of surveys carried out to date, there is currently no requirement for any species licenses to be obtained prior to commencement of development. Given the mobile nature of species and likely time elapsed between the survey work reported in the EIA Report and commencement of any development, pre-construction surveys for protected species shall be undertaken and species protection plans (SPP) shall be produced for each species present, or potentially present on site. NatureScot welcome this approach but advised that rather than the timescales of a maximum 6 months prior to works progressing suggested in the EIAR for undertaking pre-construction surveys, the times should instead be no more than 3 months prior to commencement for species which can surveyed at any time of the year and as close to the start of works as possible for those with a restricted survey window.
- 9.168. With regard to GWDTEs and the proposed site access options, SEPA advise that Option 1 is preferable on the basis that it does not require extra water crossings and avoids areas of deep peat. If Option 2 were to be taken forward, then SEPA would require detailed plans to show disruption to the flow of GWDTEs will be avoided. SAC's appointed ecologist also raised concerns with regarding the Option 2. In additional information supplied to SEPA in August 2025, the applicant confirmed that they would proceed with access Option 1, thus eliminating the concerns raised by both SEPA and SAC's appointed ecologist.
- 9.169. Losses of valuable habitats appear relatively minor in extent. NatureScot welcome the proposed turbine layout, stating that it generally avoids the area of deepest peat. The proposal is not considered to raise issues of national interest in respect of impacts on priority peatland, in accordance with the mitigation hierarchy detailed in NPF4. The estimated direct and indirect habitat loss of blanket bog habitats is approximately 0.54 ha and NatureScot welcome the applicant's commitment to deliver peatland restoration of an area of approximately 4.8ha. The Outline Habitat Management Plan (OHMP), as outlined above, includes a commitment to enhance blanket bog, which should be adhered to.
- 9.170. Overall, there is acceptable information on proposed mitigation measures to align with legislation for protected species including pre-construction surveys, and species protection plans as part of a Construction Environment Management Plan (CEMP), which would need to be subject to a pre-commencement of development planning condition.

#### Chapter 10 - Ornithology

- 9.171. Following consultation with NatureScot, potential effects on qualifying gull species associated with the Ailsa Craig SPA/SSSI were initially included in the assessment as a precaution. These were subsequently scoped out following further assessment. Notwithstanding, species evaluation detail was provided in EIAR Chapter 10 Section 10.5 and Table 10.9. NatureScot were satisfied that the proposal would be unlikely to have a significant effect on any qualifying species of the SPA/SSSI due to the distance of the development from the SPA/SSSI and the lack of/minimal number of flights observed in the surveys.

- 9.172. The consultation response from NatureScot provides a detailed appraisal of the impacts of the proposal and advice. Due to the adoption of NPF4, NatureScot have not provided advice on the landscape and visual effects of this proposal. Considering International and National Natural Heritage Designations, the proposal is unlikely to have a significant effect on the qualifying interests of the Ailsa Craig SPA and SSSI and therefore an appropriate assessment is not required.
- 9.173. In terms of impact on merlin in the area, the collision risk modelled was for 0.68 bird mortality a year (11% of the regional population), which is considered to likely overestimate the impact on the small regional population (EIAR Chapter 10 p20) being based upon 2 flights sighted within 1 year.
- 9.174. NatureScot welcome the ornithology mitigation proposed for each phase of the development (summarised in **EIAR Chapter 19**). In particular, the appointment of an ecological clerk of works, scheduling of works out with the main bird breeding season and the development of a post construction bird monitoring programme, which can be subject to a planning condition.
- 9.175. Additionally, it is noted that the RSPB had no comments to make with regard to the EIAR, due to the relatively low level of activity which had been recorded for at high-risk species.

### **Conclusions on biodiversity**

- 9.176. The proposal would not have any significant adverse effects on overall biodiversity of the area, and the development would not be at significant risk to any nearby ecological designations or protected species. Planning condition controls via the CEMP for pre-construction surveys and species protection plans will help avoid any significant impact on the ecological environment during the construction process. The proposal is therefore considered to comply with NPF4 Policy 11 Criteria (e)(vix), NPF4 Policy 3 – Biodiversity and LDP2 Policy: Natural Heritage.

### **Criteria (e)(x) impacts on trees, woods and forests**

- 9.177. The relevant policies are:
- **NPF4 Policy 6: Forestry, woodland and trees** – aims to protect and expand forests, woodland and trees
  - **LDP2 Policy: Preserving Trees** - When assessing proposals for development that might involve loss of, or work to trees, we will consider how much it would affect the local area and will take measures to protect trees, especially those covered by a provisional or confirmed Tree Preservation Order. Ancient and veteran trees of high nature conservation and landscape value will be protected.
  - **LDP2 Policy: Woodland and Forestry** - We will support proposals for woodland and forestry that are: a. Consistent with the objectives and main actions of the Ayrshire and Arran Woodland Strategy; and b. Sympathetic to the environmental (including landscape and visual impacts), nature and wildlife interests of the area, and, wherever appropriate, provide recreational opportunities for the public. Relevant advice contained within The Scottish Government's Policy on Control of Woodland Removal will be taken into account when determining planning applications.
- 9.178. **EIAR Chapter 18 – Forestry** quantifies the extent of permanent and temporary felling and compensatory planting requirements. 118.1ha of felling would be required in advance of constructing the proposed development. This is a combination of keyholding for development infrastructure and clear felling back to management boundaries. The area of conifer woodland would decrease by 75.4ha if access Option 1 is pursued. 82ha of conifer woodland would be removed if access Option 2 is pursued. The area of unplanted ground would increase and as a result there would be a net loss of 52.3ha or 60.9ha of woodland area, depending on the access option chosen.
- 9.179. The applicant expects the extent, location and composition of the compensatory planting to be agreed with Scottish Forestry prior to commencement of development, via planning condition. Scottish Forestry confirmed in their response that compensatory planting will require to be provided, and any proposals should be presented to them for their consideration. Scottish Forestry also noted that any forestry related felling consented through the planning process should be limited to that required for the construction of the windfarm only. The forest plan for the wider area should not form part of the planning consent as this would be approved by Scottish Forestry as part of their regulatory duties under separate legislation.

### **Conclusions on trees, woods and forest impact**

- 9.180. Overall, there are no significant impacts on trees, woods and forestry and no consultees have raised any significant concerns, which cannot be addressed by way of condition. The proposal therefore complies with NPF4 Policy 11 part (e)(x).

### **Criteria (e)(xi) – proposals for the decommissioning of developments, including ancillary infrastructure and site restoration**

- 9.181. The applicant has provided limited detail on the decommissioning of the development and proposed site restoration. The applicant proposed that this matter would be dealt with in the form of planning conditions, to be agreed with the ECU and South Ayrshire Council. **Chapter 5 of the EIAR ‘Proposed Development’** provides some detail with respect to this matter.
- 9.182. The applicant has committed to a site restoration plan for approval by South Ayrshire Council before construction begins. Excavated materials will be replaced in a sequence and to a depth similar to those recorded during excavation, or similar to the surrounding undisturbed ground at the point of reinstatement.
- 9.183. With respect to decommissioning, if it is decided to decommission the proposed development, this will result in the removal of all the turbine components, transformers, the substation, compound fences and associated buildings. A Site Decommissioning plan will set out environmental protection measures and restoration principles which will be implemented. This plan will be agreed with South Ayrshire Council.
- 9.184. The top 1m of the turbine foundations will be dismantled and removed, before being covered with suitable material and reinstated. Underground cables will be left in place. Crane pads and hardstanding will be left in-situ but would be covered with suitable material.
- 9.185. Traffic and noise produced during decommissioning of the proposed development is likely to be of a similar nature to that during construction, although the duration of decommissioning will be shorter than that of construction, and traffic volumes would be lower. Any legislation, guidance or best practice relevant at the time of decommissioning would be complied with.
- 9.186. Details of the decommissioning would be agreed with SAC at a time specified in conditions and would set out details of the removal of the proposed Development, the removal of all components for reuse, recycling or disposal, the treatment of ground surfaces, the management and timing of the works and environment management provisions.

### **Conclusion on decommissioning and restoration**

- 9.187. Overall, it is not considered there would be any unacceptable impacts associated with the decommissioning period. Site restoration and decommissioning plans would be implemented including the measures in place to safeguard or guarantee the effective implementation of those plans. This will be controlled via planning conditions in agreement with the ECU and SAC. The proposal therefore complies with NPF4 Policy 11 Part (e)(xi).

### **Criteria (e)(xii) - the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans**

- 9.188. Under this criterion, NPF4 Looks to ensure that the site restoration plans are of high quality and include any measures or guarantees of the financial viability of the restoration proposals.
- 9.189. As previously discussed, full details of the site restoration have not yet been submitted and will need to be agreed with the Council. Planning conditions and agreement by the Council will ensure that the restoration plan is high quality.
- 9.190. The proposal is therefore considered to comply with Policy 11 part (e)(xii).

### **Criteria (e)(xiii) – Cumulative impacts**

- 9.191. The cumulative impact of the proposal has been considered throughout each section of the report and the individual assessment criteria within Policy 11 of NPF4. The potential and significance of cumulative impacts have also been considered in each chapter of the applicant's EIAR.

- 9.192. The cumulative landscape and visual impacts resulting from the proposal and nearby operational, consented, and proposed wind farms are set out earlier in this report (assessment of Criteria (e)(ii)) and it is concluded that there will be adverse cumulative landscape and visual effects associated with this proposal.
- 9.193. As previously set out, the applicant's noise impact assessment as part of the EIA Report Chapter 8 found that operational noise levels from the proposed development would meet the criteria set out in ETSU-R-97, which provides for acceptable levels of protection to residents. ACCON and the Council's Environmental Health Service offered no objections to the assessment and findings considered, subject to conditions.
- 9.194. The conclusion of the assessment indicates that the total cumulative noise levels would again meet noise limits (as set by national guidance) at the nearest noise sensitive receptors and that operational turbine noise from the development would not be significant in EIA terms. ACCON and the Council's Environmental Health Service have raised no issues in this regard and therefore cumulative noise effects are therefore acceptable.

#### **Conclusion on cumulative impact**

- 9.195. On balance, it is considered that the proposed development will have an unacceptable cumulative impact in relation to landscape and visual impact, however no other significantly adverse cumulative impacts have been identified.

## **10. Other Policy Considerations**

### **Soils and peat**

- 10.1. **NPF4 Policy 5** aims to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development.
- 10.2. Development on peatland, carbon rich soils and priority peatland can be acceptable where the development is for generation of green energy and aids the reduction in greenhouse gases. Part (d) of Policy 5 requires applicants to carry out a detailed site-specific assessment and submit a peat management plan to avoid adverse impacts and minimise negative effects through best practice.
- 10.3. As previously discussed in the site description, Peat probing surveys were undertaken by the applicant in August 2023 and in August-September 2024. The interpolated peat depth map (EIA Report Appendix 11.2) indicates that approximately 88% of the site contains peat depths <0.5m, principally located in the centre, west and north. There are areas where peat depths are between <2-<3m, including around turbine 4 and 9 infrastructure, to the north west of turbine 10 and to the south of turbine 6. The areas of deepest peat, >3m, were recorded to the east of turbine 4, near the Application Boundary.
- 10.4. The applicant has provided a peat management plan (PMP) in accordance with the requirements of Policy 5. A site-specific Preliminary Peat Landslide Hazard and Risk Assessment has also been prepared to inform the proposed development design.
- 10.5. Dailly Community Council have raised concern about the loss of peat and consider that there should be no peat degradation as a result of the proposed development.
- 10.6. SEPA originally issued a response with a holding objection. In response, the applicant provided an updated Peat Management Plan and moved an area of hardstanding associated with proposed T09. As a result, SEPA are satisfied that, subject to conditions, the impact on peat and carbon-rich soils has been addressed.

- 10.7. NatureScot considered that the impacts on peatland habitats as a result of the proposal are unlikely to be of national interest. The applicant has generally demonstrated the avoidance of impacts on peatland habitats. A significant level of enhancement is also required in accordance with NPF4 Policy 3b. The **EIA Report Appendix 9.5: Biodiversity Net Gain**, identifies that compensatory and enhancement measures are to be provided via a Habitat Management Plan (HMP). The EIAR proposes the applicant would deliver peatland restoration over an area of approximately 4.8ha and this is broadly supported by NatureScot. Measures identified in the EIA Report to minimise impacts on peatland habitats should be formalised through the submission of a finalised Construction Environmental Management Plan, Peat Management Plan & Peat Landslide Risk Assessment for approval by the Planning Authority prior to development commencing. The CEMP should also contain full details of the measures required to restore habitats on completion of construction.
- 10.8. Ironside Farrar have technically assessed the Peat Landslide Hazard and Risk Assessment(s) (PLHRAs) submitted by the applicant. Peat landslide risk is considered to be negligible to low within the PLHRA for the majority of the proposed development therefore only generic mitigation and good practice measures have been provided. Ironside Farrar consider this mitigation to be acceptable; however, further specific mitigation will be required if the access track near Turbine 10 and the area between Turbines 7 and 9 are confirmed to be in moderate risk areas. Ironside Farrar advise that the PLHRA requires minor revisions and has provided a list of recommendations requiring clarification from the developer.

#### **Conclusion on soil and peat**

- 10.9. SEPA, NatureScot and the Scottish Government's Advisor on peat landslide risk have no issues to raise in terms of potential significant adverse impact on soil and peat in particular.
- 10.10. Overall, it is considered that the proposal complies with NPF4 Policy 5 as the proposal seeks to protect carbon-rich soils and minimise disturbance to soils from the proposed development.

#### **Socio-Economic Impact including Community Wealth Building**

- 10.11. The relevant policies are:
- **NPF4 Policy 11 (c) - Energy** states that "development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated benefits and supply chain opportunities".
  - **NPF4 Policy 25 – Community Wealth Building** states that "development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities will be supported. This could include for example improving community resilience and reducing inequalities; increasing spending within communities; ensuring the use of local supply chains and services; local job creation; supporting new community led proposals, including creation of new local firms and enabling community led ownership of buildings and assets".
- 10.12. **EIAR Chapter 13 – Socio-Economics, Tourism and Recreation** and the **Planning Statement** considers the socio-economic impact of the proposed development of Back Fell Wind Farm. Up to £11.4 million will be spent within the local economy and up to £4.9 million in local added value is anticipated to be contributed to the local economy.
- 10.13. The construction phase is predicted to support around 71 additional construction jobs. The construction phase employment impact is anticipated to generate a minor beneficial effect.
- 10.14. The impact of the operational phase of the proposed development is predicted to have a beneficial effect. It is predicted that the equivalent of thirteen full time jobs will be supported in South Ayrshire during the operational phase of 35 years. This was assessed to be a minor beneficial effect.
- 10.15. It is anticipated that the decommissioning phase impacts shall be similar to construction phase impacts. The significance of effect is anticipated to be the same as or similar to the anticipated significance of effect during the construction phase, minor beneficial and therefore not significant.

- 10.16. A proposed Community Wealth Fund would provide long-term revenue which could be used to support community projects. Local communities would have the flexibility to choose how the money is spent and prioritise it on the things which matter most to them. It is anticipated such a fund will be worth around £310,000 per annum, with each generating MW providing a guaranteed income of £5,000 annually. The applicant is open to offering discounted energy bills to local residents during the operation life of the wind farm and funding local business initiatives.
- 10.17. Cumulative wind farm developments within a 10km radius of the proposed development were considered relevant to the assessment. The beneficial socio-economic effects associated with the proposed development would be increased and prolonged as a result of the construction and operation of cumulative wind farm developments. The greater the generating capacity of consented and constructed developments in the area, the more likely it is that the local area can benefit from supply chain opportunities. Additionally, operations and maintenance activities relating to the developments will likely be based locally as there would be enough opportunities locally to employ full-time local employees and companies. Should all of the wind farm developments within 10km be constructed the likely cumulative impact of this is considered to be major (significant) beneficial.

#### **Conclusion on Socio-Economic Impact including Community Wealth Building**

- 10.18. Overall, the socio-economic impact of the proposal during both the construction and operational phases is considered to be beneficial. To ensure compliance with NPF4 Policy 25, that benefits from the scheme are retained and redirected back into the local economy as much as possible during construction and operation, will require a Community Development Strategy (CDS) to be agreed prior to the commencement of development. This should include a commitment from the Applicant to use local supply chains wherever possible. The CDS should also commit that community benefit clauses will be considered in any procurement contracts wherever there is an appropriate legal basis to do so.

### **11. Overall S.36 Consultation Conclusion**

- 11.1. In conclusion, having considered the applicant's EIA Report and supporting documentation, the identified benefits of the scheme, the consultation responses received and having balanced the developers' interest against the wider community interest it is recommended that a position of **objection** be submitted to the Scottish Government. The substantial changes that would affect a large number of landscape and visual receptors over a large part of the landscape demonstrate that the proposed development is not fully compliant within NPF4 Policies 4 and 11 and the landscaping and renewable energy related policies SALDP2. This conclusion is considered to be sufficient to warrant an objection by the Council.

## **Recommendation**

- 11.2. It is recommended that an **objection** be raised to the proposed Back Fell Wind Farm development. Should the Energy Consents Unit and Scottish Ministers be minded to grant consent as determining authority, the following list are the subject areas that South Ayrshire Council recommend should form S36 and deemed planning conditions.

- All conditions requested by statutory consultees
- All mitigation proposed within the EIA Report, its appendices and the Planning Statement
- Standard noise conditions for wind turbines
- Condition covering shadow flicker mitigation should complaint(s) be received
- Condition requiring a Construction Environmental Management Plan (CEMP) and including a Construction Management Plan (CMP) and Construction Traffic Management Plan (CTMP)
- Condition requiring a Water Management Plan (can be contained in CEMP)
- Condition requiring a Dust Management Plan (can be contained in CEMP)
- Condition requiring an Emergency Action Plan (can be contained in CEMP)
- Condition requiring installation of Aircraft Detection Lighting System (ADLS)
- Condition requiring a Landscape Mitigation and Enhancement Plan
- Condition requiring an Archaeological Written Scheme of Investigation (WSI)
- Condition requiring access track provision and signpost improvements
- Condition requiring Staff Travel Plan
- Pre-commencement updated ecological surveys including any Species Protection Plans
- Collision monitoring of protected bird species
- Pre-commencement surveys in any areas where micro-siting is required
- Details of compensatory tree planting including net gain.
- Community development strategy
- Decommissioning, Restoration and Aftercare Plan including financial guarantee

## **12. Background papers**

1. Application form plans and supporting documentation including the Planning Statement and the Environmental Impact Assessment Report and supplementary appendices and figures.
2. Consultation responses to the ECU
3. Representations to the ECU
4. National Planning Framework (NPF) 4 - February 2023
5. Historic Environment Scotland Policy Statement
6. Planning Advice Note 2/2011 'Planning and Archaeology'
7. South Ayrshire Council Local Development Plan 2 - August 2022
8. South Ayrshire Council Planning Policy Guidance: Wind Energy
9. South Ayrshire Landscape Wind Capacity Study 2018
10. South Ayrshire Local Landscape Designations Review 2018
11. South Ayrshire Planning Policy Guidance: Dark Sky Lighting
12. SNH Guidance – Siting and Design of Windfarms 2017
13. Residential Visual Amenity Assessment Technical Guidance Note 2/19 (Landscape Institute)
14. Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation: Nature Scot Et al (2021).
15. Scottish Government Control of Woodland Removal Policy.

## **13. Person to Contact:**

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