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10 June 2022

To: Councillors Bell (Chair), Cavana, Clark, Connolly, Kilbride, Kilpatrick, Dixon, Mackay and Townson

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, 23 June 2022 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
Head of Legal, HR and Regulatory Services

B U S I N E S S

1. Declarations of Interest.
2. Hearings relating to Applications for Planning Permission - Submit Reports by the Director – Place (copies herewith).
3. Applications under S36 of the Electricity Act 1989 (as amended)
 - (1) Proposed Wind Farm, Knockcronal, U4 From C1 Junction near Craig via Balbeg and Dalmorton to Palmullan Bridge, Straiton (Ref 21/00993/DEEM); and
[Application Summary](#)
 - (2) Proposed Carrick Windfarm, C1 From Newton Stewart Road Straiton, south to Council boundary north-east of Loch Moan, Straiton (22/00094//DEEM).
[Application Summary](#)
- Submit reports by the Director – Place (copies herewith)

For more information on any of the items on this agenda, please telephone Andrew Gibson, Committee Services on at 01292 612436, at Wellington Square, Ayr or
e-mail: andrew.gibson@south-ayrshire.gov.uk
www.south-ayrshire.gov.uk

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South Ayrshire Council
List of Planning Applications for Panel Consideration on 23rd June 2022

List No.	Reference Number	Location	Development	Applicant	Recommendation
1.	22/00093/APP Mr David Clark (Objections)	Victory Park And Pavillion South Park Avenue Girvan South Ayrshire Application Summary	Construction of a 3G artificial grass surfaced sports pitch with associated fencing, floodlighting, access paths, service access road and drainage	South Ayrshire Council	Approval with Conditions
2.	21/00772/PPPM Mr Alastair McGibbon (Objections)	Alexanders Sawmills Ltd Heathfield Road Ayr South Ayrshire KA8 9SS Application Summary	Planning permission in principle for erection of Class 1 retail foodstore, Class 9 residential development and associated works (with detailed matters brought forward for the Class 1 foodstore, car parking access, landscaping and other works)	Lidl And Alexander Sawmills Ltd	Refusal
3.	22/00198/APP Mr David Clark (Objections)	Plot 1, Knockendale Farm C93 From B730 Junction North West Of Bogend South West To Brewlands Road Symington Symington South Ayrshire KA1 5PN Application Summary	Erection of dwellinghouse	Mr Martin Fraser	Approval with Conditions

List No.	Reference Number	Location	Development	Applicant	Recommendation
4.	22/00164/APP Ms Emma McKie (Objections)	Water Pipe Adjacent To Gregg Bridge B734 From A714 Junction At Pinmore Bridge To Barr Pinmore South Ayrshire Application Summary	Installation of handrailing with signage	Scottish Water	Approval with Conditions
5.	22/00227/FUR Mr David Clark (Objections)	Proposed Dwellinghouse C150 From A77t Junction North Of St Quivox To B743 Junction At Slatehall St Quivox South Ayrshire Application Summary	Further planning permission for the erection of a dwellinghouse (18/00865/APP)	Hannah Research Foundation	Approval with Conditions
6.	22/00192/APP Ms Emma McKie (Objections)	3C St Quivox Road Prestwick South Ayrshire KA9 1LJ Application Summary	Part change of use of Class 3 unit to form hot food takeaway and erection of flue	Flakes Prestwick Ltd	Approval with Conditions

List No.	Reference Number	Location	Development	Applicant	Recommendation
7.	22/00132/PPP Mr David Clark (Objections)	Land Adjacent To Borneo Hill A759 From Council Boundary At Old Rome Bridge To Bypass Road Dundonald Dundonald South Ayrshire KA2 9BQ Application Summary	Planning Permission in Principle for the erection of dwellinghouse and two agricultural buildings	Mr Keith Montgomery	Refusal
8.	22/00334/APP Mr Ross Lee (Objections)	Land At Whilk Meadow A77T From Lendalfoot To Main Street Ballantrae Ballantrae South Ayrshire Application Summary	Retention of existing construction site office building for use as a permanent caravan site office/ reception and construction of associated access path	D And F Caravan Parks Ltd	Approval with Conditions
9.	22/00242/APP Mr Ross Lee	Proposed Wind Farm, Knockcronal U4 From C1 Junction Near Craig Via Balbeg And Dalmorton To Palmullan Bridge Straiton South Ayrshire Application Summary	Erection of a temporary 140m high meteorological mast	Knockcronal Wind Farm Limited	Approval with Conditions

REGULATORY PANEL: 23 JUNE 2022**REPORT BY PLACE DIRECTORATE****22/00093/APP****VICTORY PARK AND PAVILLION SOUTH PARK AVENUE GIRVAN SOUTH AYRSHIRE****Location Plan**

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Summary

Planning permission is sought for the construction of a 3G artificial grass surfaced sports pitch with associated fencing, floodlighting, access paths, service access road and drainage at Victory Park, South Park Avenue, Girvan. The application site is identified as open space through the provisions of the South Ayrshire Local Development Plan. The formation of the proposed 3G artificial grass surfaced sports pitch is considered to ensure the continued open space use of the site and the proposed fencing and floodlighting are considered to be ancillary to this leisure use.

The application has been assessed against the various material planning considerations which include the provisions of the development plan, the emerging development plan, Scottish Planning Policy, PAN65, consultations, representations received, and the impact of the proposed development on the locality. The assessment concludes that the proposed development broadly aligns with the policy provisions of the local development plan and the emerging local development plan 2. The consultation responses do not raise any issues of over-riding concern. The matters raised in the representations have been fully considered, but do not raise any issues that would merit a different recommendation. Overall, there are no policy objections. It is considered that the proposal will not have an unacceptable impact on the character, setting or appearance of the site, or the wider locality. The application has been considered in this context. Accordingly, the application is recommended for approval, subject to conditions.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00093/APP
SITE ADDRESS:	VICTORY PARK AND PAVILLION SOUTH PARK AVENUE GIRVAN SOUTH AYRSHIRE
DESCRIPTION:	CONSTRUCTION OF A 3G ARTIFICIAL GRASS SURFACED SPORTS PITCH WITH ASSOCIATED FENCING, FLOODLIGHTING, ACCESS PATHS, SERVICE ACCESS ROAD AND DRAINAGE
RECOMMENDATION:	APPROVAL WITH CONDITIONS

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal:

Planning permission is sought for the construction of a 3G artificial grass surfaced sports pitch with associated fencing, floodlighting, access paths, service access road and drainage at Victory Park, South Park Avenue, Girvan.

The application site is located within the boundaries of Victory Park, Girvan. The site is bound by Victory Park Road and residential developments to the west, North Park Avenue to the north, further playing fields to the east and South Park Avenue to the south. Approximately 230 metres east of the site, the Mill Burn flows in a generally north-westerly direction, with Girvan Academy approximately 50 metres further east of the eastern site boundary. Victory Park includes a formal play park and formal playing fields; and is identified in the South Ayrshire Local Development Plan as an area of open space. In total, the application site covers an area of approximately 10,050 square metres. It should be noted that the existing play park/ play equipment would require to be relocated with Victory Park should planning permission be granted for the proposal and, while not forming part of this application, it is proposed to be re-located to the north-east of the existing footpath that traverses the centre of the site.

The proposed 3G sports pitch would occupy a footprint of approximately 8468 square metres and the playing surface would be constructed of synthetic materials. A wire mesh fence would be positioned around the perimeter of the pitch and would reach a height of 3 metres. A total of 8 floodlights are proposed around the perimeter of the pitch and would reach a height of 15 metres. It is understood that the facility will be utilised by both the nearby Girvan Academy and Girvan Primary School, as well as being available for public use. The application submission notes that the formal play park is to be reallocated as a consequence of the development proposals under consideration.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the Council has a financial and ownership interest in the site, and one or more written objection has been received.

2. Consultations:

Environmental Health - offer no objection but indicate that the proposed facility should not exceed specified DB levels of noise. Environmental Health also indicate that the proposed facility should not be in use before 8.00am and after 10.00pm and a management plan clarifying the operational arrangements to demonstrate compliance with the hours of operation restriction shall be submitted.

Scottish Environment Protection Agency - offer no objection but indicate that under SEPA's Flood Risk and Land Use Vulnerability Guidance on outdoor sports and recreation and essential facilities...' the proposals are considered to be 'water compatible' in terms of their susceptibility and resilience to flooding. SEPA note the Flood Risk Assessment states that existing ground levels are to be maintained, to ensure that no existing functional flood plain storage is compromised. SEPA therefore do not intend on offering site specific comments pertaining to the application proposals.

Ayrshire Roads Alliance - offer no objection subject to conditions.

West Of Scotland Archaeology Service - no objection, subject to a suitable planning condition requiring the submission of a written scheme of investigation to determine the character and extent of any archaeological remains within the proposed development area. This aspect can be dealt with via an appropriate planning condition.

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.

Ecological Impact Assessment – The Ecological Impact Assessment recommends mitigation measures, including the retention and protection of existing trees. The assessment considers that when the recommendations are taken into consideration the overall impact of the proposed development on the key ecological constraints and considerations is reduced to an acceptable level. The assessment therefore concludes that any potentially significant ecological impacts can be met and reduced to an acceptable level.

Additionally, the Ecological Impact Assessment states that the new development has potential to bring local biodiversity benefit through the range of enhancement measures for biodiversity recommended within this report, although it should be noted that the developer is under no legal obligation to carry any of these recommendations.

Flood Risk Assessment (FRA) – A FRA has been submitted which assesses the potential risk of flooding to the proposed development site. The FRA also addressed flood risk from all sources, with particular focus on fluvial and pluvial sources. The report recommends that the existing site levels are maintained as part of the design so that any functional floodplain storage within the site is retained. Additionally, the FRA intimates that a suitable and efficient drainage network for the pitch area should be implemented and maintained so that there is minimal chance of blockages occurring (such as through siltation etc.). Finally, the report recommends that all impermeable areas, access roads, and additional SUDS features should be located out with the functional flood plain.

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:**

236 representations have been received, 61 of which object to the proposed development and 175 which support the proposed development. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The concerns of the objectors can be summarised as follows:

- The development is contrary to the Local Development Plan and the principle of Scottish Planning Policy;
- Impact of the proposed development on the residential amenity (noise and light pollution) of neighbouring properties at Victory Park Road, North Park Avenue and South Park Avenue;
- Concerns relating to the landscape impact, layout, design and visual appearance of the development;
- Flooding and drainage concerns – specially that the development proposal is to be built on a flood plain;
- Traffic/ parking/ road safety concerns;
- Natural heritage/ ecological concerns;
- The loss of public open space;
- Proposal will change and prevent public right of access to Victory Park;
- Proposal does not meet the requirements of COP26, the climate change agenda and will contribute towards pollution;
- No changing/ toilet facilities associated with the proposal;
- Application site comprises Common Good Land and should not be developed;
- Anti-social behaviour/ security concerns;
- Proposal should be located in a different and more suitable location;
- Concerns regarding the cost of the development proposal;
- No need for the pitch as others exist within Girvan;
- Proposal does not meet the provisions of the Equalities Act (2010);
- Approval of the permission would set an undesirable precedent;
- Impact on property values; and
- If the development goes ahead, surrounding properties should have their Council Tax Rates reduced.

The comments made in support of the application proposals generally indicate that the proposed all weather pitch would represent a much needed and welcomed facility for the town of Girvan.

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. 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.

(i) Development Plan

Section 25 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 following provisions of the local development plan are considered relevant to the consideration of this application and the policies can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/planlpdocuments.aspx>

- Spatial Strategy (Core Investment Towns);
- Sustainable Development;
- Open Space;
- Community Facilities;
- Archaeology;
- Flooding and Development; and
- Land Use and Transport.

The proposal has been assessed against the Local Development Plans' Spatial Strategy and is found to be in accordance with that strategy, particularly with regard to the creation of sustainable communities and directing development to environmentally suitable places with infrastructure.

LDP Policies: Spatial Strategy and Core Investment Towns seek to direct and encourage development towards existing towns and villages, and in particular to the most environmentally suitable places with the best infrastructure within settlements. In this instance the proposal will provide an all-weather community outdoor games area and associated infrastructure. It is considered that the development makes a positive contribution to local amenities, in terms of the provision of improved and additional community facilities including the outdoor games area, and through the provision of enhanced pedestrian and cycle access to, and through the site. The application is considered in this context.

LDP Policy: Sustainable Development seeks to ensure that development is appropriate in terms of its impacts on local amenity and that its layout, scale, massing, design and materials are acceptable in relation to its surroundings. In addition, development should be suitable in terms of its bearing on residential amenity, infrastructure implications and contribute to the efficient use of public services and facilities.

Further consideration of the impact of the updated proposals on the residential amenity of properties in the vicinity, is set out below. Consultation responses received have not raised any objections to the scheme. Planning conditions and advisory notes can be attached to any permission to control matters arising as a consequence of the development.

It is considered that the use of part of the open space as part of the site to be developed, would improve, not only the facilities for the local community, but also the amenity value of the open space for the benefit of residents and the wider community.

The LDP policy in relation to community facilities seeks to support community facilities. In this regard, the proposals to provide a new 3G artificial grass surfaced sports pitch are considered to be entirely consistent with this policy objective of the LDP.

In terms of archaeological issues, the site lies within an area of archaeological sensitivity and potential based on the presence of recorded sites of prehistoric, medieval, and later date in the surrounding landscape. The Ayrshire coastal plain and the Girvan area in particular have a high density of recorded sites and finds and modern investigations ahead of other large-scale developments in recent years has revealed further buried archaeology. WoSAS offered no objection to the proposal, subject to an appropriate planning condition being attached to any permission so as to allow for the implementation of archaeological works, including recording and recovery of any archaeological resources within the site. This aspect can be addressed by way of an appropriate planning condition.

In terms of the flooding, the agent has submitted a Flood Risk Assessment to determine the flood risk to the development from all relevant sources, and to make appropriate recommendations to ensure that the development is appropriately resilient and resistant from all sources of flooding. The FRA has been considered and assessed by SEPA, and also the Ayrshire Roads Alliance in their capacity as the Flood Prevention Authority, both of which have offered no objection to the proposal. On this basis, it is considered that the development proposal is acceptable and does not present any issues in terms of flooding. The implementation of any flood mitigation measures can be addressed by way of an appropriate planning condition.

With regard to traffic/ parking road safety implications associated with the development proposals, the Ayrshire Roads Alliance has been consulted on the application and offer no objection subject to conditions. The comments of the Ayrshire Roads Alliance can be addressed by way of appropriate planning conditions.

Given the above policy context, the principle of the development proposal is considered to be in accordance with the afore-mentioned policy provisions of the local development plan.

The provisions of the Adopted South Ayrshire Local Plan 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.

The statutory Local Development Plan (LDP) for the area currently comprises the South Ayrshire Local Development Plan (adopted in September 2014) and its associated Supplementary Guidance, as well as the Town Centre and Retail Local Development Plan, adopted in 2017.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications. The policy provisions of the LDP2 continue to identify the application as being an area of open space.

(ii) Other Policy Considerations (including Government Guidance)

- o Planning Advice Note 65 – Planning and Open Space

Planning Advice Note - PAN65 - Planning and Open Space recognises that "open spaces are important for our quality of life. They provide the setting for a wide range of social interactions and pursuits that support personal and community well-being. They allow individuals to interact with the natural environment and provide habitats for wildlife. They can also be important in defining the character and identity of settlements". PAN 65 considers sports areas to be open space where they are described as "large and generally flat areas of grassland or specially designed surfaces, used primarily for designated sports (including playing fields, golf courses, tennis courts and bowling greens) and which are generally bookable". Given that PAN65 defines sports areas (including specifically designed surfaces) as being open space, it is considered that the principle of the proposal is consistent with this government advice note.

- o South Ayrshire Open Space Strategy 2012;

The Council has produced an Open Space Strategy. The Strategy, which is based on a quantitative and qualitative audit of open space in South Ayrshire, sets out a vision for the provision, management, and maintenance of open spaces within the Council's area. Whilst generally seeking to protect and improve open spaces, the Strategy does not preclude them from being developed - particularly when the development improves the facilities associated with the open space. However, development proposals also require to be considered based on the provisions of the development plan, merits of the proposal and any individual site-specific circumstances arising, and also the planning history of the site. The application has been considered in this context.

(iii) Objector Concerns

The representations received in relation to the proposal are noted, and the following response is offered in respect of the objections received:

- The development is contrary to the Local Development Plan and the principle of Scottish Planning Policy (SPP);

An assessment of the development proposals against the policy provisions of the Local Development Plan are set out elsewhere in this report. A number of objections intimate that the proposals are contrary to the requirements set out in SPP pertaining to flood risk. As set out elsewhere in this report, the Ayrshire Roads Alliance (ARA) consider that the development of the 3G pitch would not be contrary to Scottish Planning Policy in terms of flood risk because of its intended purpose.

- Impact of the proposed development on the residential amenity (noise and light pollution) of neighbouring properties at Victory Park Road, North Park Avenue and South Park Avenue;

The application proposal has been the subject of formal consultation with the Council's Environmental Health Service (EH) which does not object to the application. EH indicate that the operation of the proposed facility should not exceed specified DB levels of noise and the operation of the facility should be limited between the hours of 8.00am and 10.00pm. The potential for noise issues arising from the proposal is a matter for the operator of the facility. A condition can, however, be attached to a planning permission which limits the hours of operation and requires the submission of management plan detailing the operational arrangements of the facility.

An advisory note can also be attached to the permission which indicates that the flood lighting requires to comply with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light to ensure neighbouring properties are appropriately safeguarded. Taking this consultation response into account, and the recommended planning condition/ advisory note, it is considered that the proposed development will have an acceptable relationship to the residential properties in the vicinity in terms of noise, light, privacy and enjoyment of gardens throughout the year.

- Concerns relating to the layout, design, and visual appearance of the development;

It is noted that the proposed perimeter fencing, and floodlights would be the most visually imposing aspect of the proposal, however, the fencing would be of a wire mesh type which would allow the penetration of light and not completely obscure views in the same way a building or other solid fence structure would. In terms of the floodlights, these would only be in use during times of low natural light and hours of darkness. These floodlight structures would also be slimline with limited visual impact when not in use. Both the fencing and floodlights would be read in the context of the proposed development. The visual impact of the proposal is, therefore, considered to be acceptable.

- Flooding and drainage concerns – specifically that the development proposal is to be built on a flood plain;

Local residents have expressed concern that the proposals represent an increased flood risk. The application has been the subject of consultation with Scottish Environment Protection Agency (SEPA) and the Ayrshire Roads Alliance (ARA) specifically in terms of potential flood risk. SEPA offer no objection to the proposal and advise that under their Flood Risk and Land Use Vulnerability Guidance 'outdoor sports and recreation and essential facilities...' are considered to be 'water compatible' in terms of their susceptibility and resilience to flooding. SEPA also note the Flood Risk Assessment states that existing ground levels are to be maintained, to ensure that no existing functional flood plain storage is compromised and therefore do not intend on offering site specific comments.

ARA undertakes the Flood Prevention role on behalf of the Council and offer no objection to this development on the grounds of flood risk and note following comments:

- *The proposed location of the 3G pitch is within a 1 in 200 (0.5% AEP) flood extent as identified by the Girvan Flood Study Phase 2; however, development of the 3G pitch would not be contrary to Scottish Planning Policy in terms of flood risk because of its intended purpose.*
- *The proposed development does not directly increase flood risk to other properties in the area.*

The ARA do, however, indicate that the development could present a significant risk to the feasibility of the currently developed Flood Alleviation Scheme for this area of Girvan which was initiated as a result of South Ayrshire Councils responsibilities under the Flood Risk Management (Scotland) Act 2009 and was an action identified in the first Ayrshire Local Flood Risk Management Plan which was approved by South Ayrshire Council Leadership Panel on the 24th May 2016. The Flood Alleviation Scheme identified the siting of a flood storage area in the location of the application site, but the ARA note that the storage area could be relocated elsewhere. While the ARA indicate that the relocation of the flood storage area could result in a significant risk to the feasibility of the Flood Alleviation Scheme for both technical and cost increase reasons, this is not a material consideration to the assessment of the current planning application which relates solely to the construction of a 3G artificial grass surfaced sports pitch and associated works. The statutory requirements of the Flood Risk Management (Scotland) Act 2009 remain and there is no general rule requiring a decision on the planning application to be delayed until the outcome of other statutory consent process(es).

Conditions can be attached to a planning permission which require the recommendations of the Flood Risk Assessment to be met and also for surface water from the site to be treated in accordance with the principles of the Sustainable Urban Drainage Systems (SUDS).

An objection also raises concern that the application submission is not accompanied by a Drainage Impact Assessment; however, the ARA has confirmed that this is not required for the application proposals.

- o Traffic/ parking/ road safety concerns;

The Ayrshire Roads Alliance (ARA) offer no objection to the application proposals and therefore the proposals are considered acceptable from a traffic/ parking/ road safety perspective.

- o Natural heritage/ ecological concerns;

The application site is not protected by way of any National or Local natural heritage designations. Notwithstanding, the application submission is accompanied by an Ecological Impact Assessment which recommends mitigation measures that can be reasonably secured by condition.

- o The loss of public open space;

PAN65 defines sports areas (including specifically designed surfaces) as being open space. The proposals are therefore not considered to result in the loss of open space.

- o Proposal will change and prevent public right of access to Victory Park;

It is not considered that the proposal will have an adverse impact on permeability/ connectivity within Victory Park or the surrounding area.

- o Proposal does not meet the requirements of COP26, the climate change agenda and will contribute towards pollution;

The planning system requires to focus on whether a development itself is an acceptable use of the land in question. Planning decisions require to be undertaken in accordance with the development plan are there are no specific policies within the South Ayrshire Local Development Plan which would preclude the installation of synthetic pitches. It should be noted however that the synthetic pitch as proposed is an area that is part of a much larger area of open space which shall remain as grass land.

- o No changing/toilet facilities associated with the proposal;

There are no changing/toilet facilities proposed and the existing pavilion to the south - east of Victory Park is not proposed to be used in association with the development. It should however be noted that how a facility in South Ayrshire is used, issues arising from its use and alternative options for the provision of sports facilities are not material considerations that should be given weight in the consideration of this application proposal. The purpose of this assessment is to consider the planning merits of the development being presented under this application.

- o Application site comprises Common Good Land and should not be developed;

It is noted that the application site comprises Common Good Land; however, potential land restrictions are not material planning considerations that should be given weight in the consideration of this application proposal.

- Anti-social behaviour/security concerns;

It is considered that appropriate usage of the facility should not adversely affect residential amenity. Anti-social behaviour, should it occur, is a matter for the police and/or anti-social behaviour teams of the Council.

- Proposal should be located in a different and more suitable location;

Each application is considered individually on its own merits, and therefore the purpose is to consider the planning merits of the development being presented under this application.

- Concerns regarding the cost of the development proposal;

The potential cost of the development is not a material planning consideration that should be given weight in the consideration of this application proposal.

- No need for the pitch as others exist within Girvan;

The representations note that other sports facilities are available elsewhere. The Council is obliged to consider the application proposal in front of it on its own merits. How a facility in South Ayrshire is used, issues arising from its use and alternative options for the provision of sports facilities are not material considerations that should be given weight in the consideration of this application proposal.

- Proposal does not meet the provisions of the Equalities Act (2010);

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

- Approval of the permission would set an undesirable precedent;

Each application is considered individually on its own merits, and therefore the purpose is to consider the planning merits of the development being presented under this application.

- Impact on property values;

Matters relating to property values are not material considerations that should be given weight in the consideration of this application proposal.

- If the development goes ahead, surrounding properties should have their Council Tax rates reduced.

Matters relating to Council Tax rates are not material considerations that should be given weight in the consideration of this application proposal.

(iv) Impact on the Locality

Planning permission is sought for the construction of a 3G artificial grass surfaced sports pitch with associated fencing, floodlighting, access paths, service access road and drainage at Victory Park, South Park Avenue, Girvan.

The application site is located within an area of designated open space; however, it is noted that the site is bound by Victory Park Road and residential developments to the west, North Park Avenue to the north, further playing fields to the east and South Park Avenue to the south. The closest residential properties to the proposed sports pitch are located at North Park Avenue, the closest being approximately 50 metres away. Given the separation distance of the proposed pitch to the closest residential properties, that Victory Park currently includes formal sports pitches and that the site is designated as open space in the Local development Plan, it is not considered that the proposed 3G artificial grass surfaced sports pitch would adversely impact on the amenity of the area.

The Council's Environmental Health Service has no objection to the application proposals in relation to the proposed 8 floodlights, has indicated that the operation of the proposed facility should not exceed specified DB levels of noise and the operation of the facility should be limited between the hours of 8.00am and 10.00pm. As set out above, the potential for noise issues arising from the proposal is a matter for the operator of the facility. A condition can, however, be attached to a planning permission which limits the hours of operation and requires the submission of management plan detailing the operational arrangements of the facility. An advisory note can also be attached to the permission which indicates that the flood lighting requires to comply with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light. On this basis, it is considered that the proposal will not have a significant adverse impact on the residential amenity of the area.

As noted above, the applicant/ agent has appropriately considered the issue of flooding and a condition can be attached to the permission which requires the implantation of any flood mitigation measures can be addressed by way of an appropriate planning condition.

It is also noted that the Ayrshire Roads Alliance offer no objection to the proposals from a transport/ road safety perspective. The comments of the Ayrshire Roads Alliance can be addressed by way of appropriate planning conditions.

The formation of the proposed 3G artificial grass surfaced sports pitch ensures the continued open space use of the site and the proposed fencing and floodlighting are considered to be ancillary to this leisure use. Accordingly, there are no policy objections to the development proposal, which will facilitate the compatibility of sport and recreational uses in the wider area of open space. Overall, the principle of the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern that cannot be addressed by condition. Equally, the points raised in the letter of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application.

8. Conclusion:

The application has been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections and following the above assessment, it is considered that the proposal will not have an adverse impact on the amenity of the locality. Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the application be approved subject to conditions.

9. Recommendation:

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

- (1) 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.
- (2) That the proposed all-weather sports pitch shall not be in use before 8.00am and after 10.00pm and a management plan clarifying the operational arrangements to demonstrate compliance with the hours of operation restriction shall be submitted for the prior written approval of the planning authority before facilities become operational.
- (3) No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.
- (4) Surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems (SUDS) Manual published by CIRIA in March 2007, details of which shall be submitted for the formal written approval of the Council prior to the commencement of work on-site. Thereafter, the development shall be implemented as per the submitted and agreed specification.

- (5) That the recommendations detailed in the submitted Enviro Centre Flood Risk Assessment, (June 2021) shall be fully incorporated into the final design solution to be submitted for the formal written approval of the Council, prior to the commencement of works on-site. Thereafter the proposed recommendations shall remain in place for the lifetime of the development.
- (6) That the recommendations detailed in the submitted Ecological Impact Assessment, (January 2022) shall be fully incorporated into the final design solution to be submitted for the formal written approval of the Council, prior to the commencement of works on-site. Thereafter the proposed recommendations shall remain in place for the lifetime of the development.
- (7) That before occupation of the development a Travel Plan shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). The Travel Plan shall identify the measures and initiatives to be implemented in order to encourage modes of travel to and from the development other than by single occupancy private car trips. The Travel Plan shall clearly define the system of management, monitoring, review, reporting and the duration of the plan. Thereafter, the Travel Plan shall be implemented as approved.
- (8) The applicant/ developer shall, prior to the movement of any construction traffic to or from the site, submit a Construction Traffic Management Plan for the written approval of the Council as Roads Authority. The plan shall describe the methodology for the movement of construction traffic to and from the site, including agreement on suitable routes to and from the site, and shall require the agreement of the Council as Roads Authority prior to any movement of construction traffic associated with the site. Thereafter, construction traffic shall be managed in accordance with the approved Construction Management plan.
- (9) The applicant/ developer shall, prior to the commencement of any construction work, submit a Parking Management Plan for the written approval of the Council as Planning Authority in consultation with the Roads Authority. The plan shall detail the measures in place to encourage patrons to park within the highlighted zones in the submitted layout plans. The Parking Management Plan shall also highlight the steps proposed to help prevent on-street parking by customers, in particular on North Park Avenue and Victory Park Road where on-street parking by customers could render existing advisory cycle lanes unusable. Information shall also be provided on how the capacities of these car parks will be managed especially in instances when the schools are hosting events/community uses at the development site. The measures identified in the Parking Management Plan shall be implemented before the development is brought into use and thereafter maintained for the lifetime of the development.

Reasons:

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (2) In the interests of residential amenity.
- (3) To establish whether there are any archaeological interests on this site and allow for archaeological excavation and recording.
- (4) To ensure the site is drained in an acceptably sustainable manner and the drainage infrastructure is properly maintained.
- (5) To reduce the risk of flooding, and to ensure the site is drained in an acceptably sustainable manner and the infrastructure is properly maintained.
- (6) In the interests of natural heritage.
- (7) To encourage sustainable means of travel.
- (8) In the interest of road safety.
- (9) In the interest of road safety.

Advisory Notes:

1. That the floodlighting hereby approved shall comply with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light to the requirements of Council's Environmental Health Service.

List of Determined Plans:

Drawing - Reference No (or Description): SAC/VP/20 Access Road and Footpath

Drawing - Reference No (or Description): SAC/VP/20 Floodlighting Details

Drawing - Reference No (or Description): SAC/VP/20 Topographical Survey

Drawing - Reference No (or Description): SAC/VP/203_ Drainage Layout

Drawing - Reference No (or Description): SAC/VP/204_A Floodlighting Layout and

Drawing - Reference No (or Description): SAC/VP/206 Typical Section of Synth

Drawing - Reference No (or Description): SAC/VP/21 Detox/Dog Grid Details

Drawing - Reference No (or Description): SAC/VP/201 (Rev. B) Location Plan

Drawing - Reference No (or Description): SAC/VP/202 (Rev. B) Proposed Site Plan

Drawing - Reference No (or Description): SAC/VP/209 (Rev. A) Proposed Fencing Details

Reason for Decision (where approved):

The siting and design of the development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Background Papers:

1. Application form, plans and submitted documentation
2. Representations
3. Adopted South Ayrshire Local Development Plan
4. Modified Proposed Local Development Plan 2
5. Town Centre and Retail Local Development Plan
6. South Ayrshire Open Space Strategy 2012
7. PAN65

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Mr David Clark, Supervisory Planner (Place Planning) - Telephone 01292 616 118

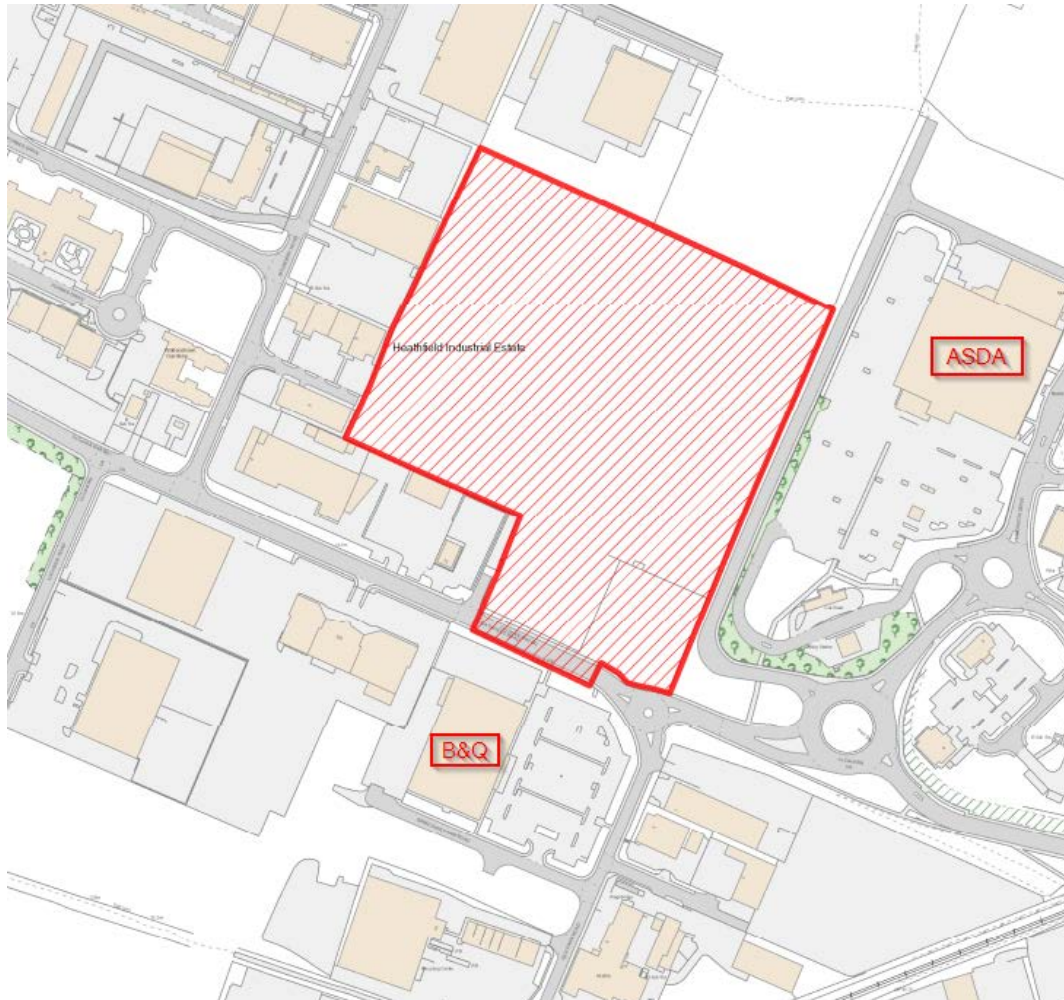
REGULATORY PANEL 23 JUNE 2022

21/00772/PPPM

ALEXANDERS SAWMILLS LTD, HEATHFIELD ROAD, AYR, SOUTH AYRSHIRE

REPORT BY PLACE DIRECTORATE

Location Plan



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Summary

This application seeks planning permission in principle for the erection of a Class 1 retail foodstore, Class 9 residential development and associated works (with detailed matters brought forward for the Class 1 foodstore, car parking access, landscaping, and other works). The application proposes the erection of a Class 1 foodstore (stated as Lidl) and up to 120 residential dwellings (including 33% (approximately 40) on-site affordable housing units). Nineteen representations have been received, of which eight are objections (5 of which are on behalf of ASDA stores) which are concerned with issues relating to: planning policy, noise and traffic and transportation. Eleven representations have been received in support of the proposed development (including from Ayrshire Housing) which outline the benefits of the proposed foodstore and housing. Consultation responses have been received from seven consultees. In assessing the proposed development, the terms of Scottish Planning Policy, relevant policies within the South Ayrshire Local Development Plan and the Report of Examination on Local Development Plan 2 have been considered with significance. It is considered that the proposed development is found to be contrary to the aforementioned policy documents and that there are no over-riding reasons to depart from planning policy. The application is therefore recommended for refusal.



REPORT BY PLACE DIRECTORATE

REGULATORY PANEL 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	21/00772/PPPM
SITE ADDRESS:	ALEXANDERS SAWMILLS LTD HEATHFIELD ROAD AYR SOUTH AYRSHIRE
DESCRIPTION:	PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF CLASS 1 RETAIL FOODSTORE, CLASS 9 RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORKS (WITH DETAILED MATTERS BROUGHT FORWARD FOR THE CLASS 1 FOODSTORE, CAR PARKING ACCESS, LANDSCAPING AND OTHER WORKS)
RECOMMENDATION:	REFUSAL

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal and site description:

This application seeks planning permission in principle for the erection of a Class 1 retail foodstore, Class 9 residential development and associated works (with detailed matters brought forward for the Class 1 foodstore, car parking access, landscaping, and other works). The site is located within the Heathfield area of Ayr, is currently vacant and extends to an area of approximately 5.88 hectares. The site is bound to the north by a commercial/industrial units and open space, by a 24-hour ASDA store to the east, by vehicle sales premises, Heathfield Road and B&Q store beyond to the south and by various commercial/industrial units to the west. The topography of the site is generally level, although there is a gradual level change across the site, running west to east.

The proposed foodstore will extend to 1,916 m² and will be supported by 124 parking spaces, inclusive of 8 dedicated accessible spaces, 11 parent and child spaces and 2 electric vehicle charging spaces. It is proposed that solar roof panels will provide up to 25% of the store's total electricity requirements. The proposed store would be single storey with a mono pitch sloped roof. The proposed access strategy would remove the existing priority junction and introduce a roundabout to accommodate the proposed development and background traffic. The proposed spine road would provide access to both the retail and residential elements but would be a segregated route designed to be suitable to accommodate both lanes. Pedestrian and cycle access would also be from the spine road.

It is important to be mindful that the residential aspect of the application is for planning permission in principle and therefore no details have been provided in this regard. However, it is stated within the application submission that the proposed residential development would be for up to 120 units comprised of mixed sizes and tenure, including 33% (approximately 40) on-site affordable housing units.

Planning Process

Due to the 'Major' status of this planning application it is necessary for the Council to come to a view on whether or not the application proposal is 'significantly contrary to the development plan' as this affects the procedure for how the Council determines the application and subsequently if it requires to be notified to Scottish Ministers. Paragraph 4.73 of Circular 3/2013 notes with specific regard to 'pre-determination hearings' that while the judgement as to whether a proposal is significantly contrary to the development plan lies with the Planning Authority, Scottish Ministers' general expectation is that this applies where approval would be contrary to the vision or wider spatial strategy of the plan.

In this regard, the proposed development is not considered to be **significantly** contrary to the development plan, although it is considered to be contrary (as explained in more detail in the 'Assessment Section of this report'). As the application proposal is a 'Major' development, the scheme of delegation requires that it be presented to the Regulatory Panel for determination. The assessment section of this report concludes that the proposal is not **significantly** contrary to the South Ayrshire Local Development Plan and consequently there is no requirement for referral of the application to Full Council.

The development proposal falls within schedule 2 of the EIA Regulations and a screening opinion has been issued which advises that an Environmental Assessment is not required.

A Processing Agreement has been prepared and agreed in consultation with the applicant which agrees that the Planning Service will seek to present the application to the Council's Regulatory Panel (Planning) no later than the end of June 2022.

A Proposal of Application Notice (Ref. 21//00241/PAN) described as "Proposal of application Notice for Erection of a Class 1 Retail foodstore and Class 9 Residential Development and Associated Works, with Detailed Matters Brought Forward for the Class 1 foodstore, Car Parking Access, Landscaping and Other Works" was submitted on 2nd March 2021. It is considered that the nature of the scheme as submitted through the current application is such that it is clearly and recognisably linked to the proposal described in the proposal of application notice.

Planning History

21/00241/PAN - Proposal of application Notice for Erection of a Class 1 Retail foodstore and Class 9 Residential Development and Associated Works, with Detailed Matters Brought Forward for the Class 1 foodstore, Car Parking Access, Landscaping and Other Works - Approved March 2021.

20/00747/MDO - Discharge of minute of agreement (Section 50) dated 18th June 1984 with regards to land at Heathfield Road, Ayr – Approved November 2020.

20/00230/MDO - Modify minute of agreement (Section 75) of Planning Permission 16/00931/FURM – Approved July 2020. An amendment was required to the legal agreement as it referred specifically to the original outline planning permission (05/00108/OUT) as amended by the 2013, 2016 and 2019 further matters applications (13/00860/FURM ,16/00931/FURM and 19/00960/FURM).

19/00960/FURM - Further application under Section 42 to vary condition 1 of planning application 16/00931/FURM – Approved October 2020.

17/00182/MDO - Discharge of minute of agreement (Section 75) (Planning Permission 13/00860FURM & 16/00931/FURM) – Approved May 2017. An amendment was required to the legal agreement as it referred specifically to the original outline planning permission (05/00108/OUT) as amended by the 2013 and 2016 further matters applications (13/00860/FURM and 16/00931/FURM).

16/00931/FURM - Further application to vary condition 1 of planning application 13/00860/FURM – Approved July 2017.

13/00860/FURM - Further application so as not to comply with condition 1 of planning permission 10/00911/FURM – Approved April 2014.

10/00911/FURM - Further application so as not to comply with condition 1 of planning permission 05/00108/OUT – Approved April 2011.

05/00108/OUT - Outline planning permission for the erection of non-retail development, garden centre and builder's yard – Approved November 2007.

2. Consultations:

Ayrshire Roads Alliance (ARA) No objection subject to conditions.

Environmental Health No objection subject to conditions.

Housing Development and Monitoring No response received.

Schools and Service Support SAC Education anticipate that the catchment area primary schools relative to the proposed development, St John's PS and Heathfield PS would be able to accommodate children from a 120-dwelling development on Heathfield Rd. However, the associated secondary school, Prestwick Academy, is currently at capacity and SAC Education have some concerns over where secondary age pupils arising from the development would be accommodated. Education contributions will therefore be required from the Developer, should the application be approved.

Scottish Environment Protection Agency (SEPA) No objection.

Scottish Water No objection.

Sustainable Development (Landscape and Parks) No objection subject to conditions.

Transport Scotland (Trunk Roads) No objection subject to condition restricting the number of residential units to 120.

Health and Safety Executive No response received.

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.

Pre-Application Consultation (PAC) Report: This report outlines the community engagement undertaken by the applicant on the proposed "*application for erection of a Class 1 Retail foodstore and Class 9 Residential Development and Associated Works, with Detailed Matters Brought Forward for the Class 1 foodstore, Car Parking Access, Landscaping and Other Works*" during the pre-application consultation period, compliance with statutory requirements and the views expressed by the local community and how the development proposals take them into consideration. The PAC Report provides a summary of the issues raised as part of the consultation exercise and provides a response to each. The report states that just over 14,000 leaflets were delivered to surrounding residential addresses informing them of the proposal and inviting them to attend an online Q&A session – the session was held on 14th April 2021. A dedicated webpage was also set up and a survey could be completed.

Preliminary Ecological Appraisal: The report states that a Desk Study and extended Phase 1 habitat surveys of the site were undertaken on 9th June 2021. One statutory designated site was identified within 5k of the site (SSSI Troon Golf Links and Foreshore); however, it is stated that the site will have no ecological connectivity or significant impact on the qualifying sand dune habitat the SSSI is designated for. The site was found to comprise mainly of ephemeral/short perennial (65.58%), with marshy grassland (10.63%) and tall ruderal (8.28%) covering the majority of the rest of the site area. Habitats of broad leaved semi-natural woodland, bare ground, dense scrub, species poor hedge with trees, dry ditch and buildings also stated as being present. The report states that no evidence of protected species was recorded within the site, no reptiles or amphibians were found in or around the site and that no protected plant species were found near or within the site. It is further stated that it is not anticipated that any of the trees identified within the site possess features suitable for roosting bats and therefore a further study would not be required prior to their removal. Finally, although no bird nesting features were observed on site, the report recommends that a nesting bird check is undertaken on trees and bushes within the site prior to construction, should construction occur within the breeding bird season (March – August).

Report on Site Investigations (1) – (March 2021): This report relates to the part of the application site that covers the proposed residential development. The purpose of this report was to: investigate the possible presence of ground contamination associated with the historical uses of the site and any potential associated risks, investigate the ground conditions, and provide recommendations on foundation and infrastructure design, to assess the possibility of surface instability associated with shallow mining and mine entries and to provide recommendations (if any) for additional works/remediation required. Made ground across the site to a maximum recorded depth of 2.9m – these deposits generally described as grey and brown gravel, occasionally clayey, sandy, and silty. Peat was encountered during previous investigations with one exploratory hole, but none encountered within any recent exploratory holes. Sand and gravel with cobbles discovered. A localised area of hydrocarbon contamination was recorded in the south-west of the site and a 600mm capping layer should therefore be incorporated in all soft landscaping areas. Excavation of these soils may also be necessary. The report also states that based on recorded gas emissions to date and the recorded ground conditions, gas protection measures are required at the site but that the site is not located within a radon affected area and as such, radon gas preclusion measures are not considered necessary. Documentary information and borehole records indicate that the area is potentially underlain by mine-workings. The report goes on to state that there was no indication of the presence of any mine entries within the site (however, three mine entries were noted to the east of the site boundary) but that vigilance should be maintained during any ground works. Finally, the report states that due to the presence of made ground soils across the site, a full 600mm capping layer is considered necessary at the site.

Report on Site Investigations (2) - (May 2021): It should be noted that this report relates solely to the proposed Lidl store position within the overall site (i.e., the south section). The purpose of this report was to: investigate the possible presence of ground contamination associated with the historical uses of the site and any potential associated risks, investigate the ground conditions, and provide recommendations on foundation and infrastructure design, to assess the possibility of surface instability associated with shallow mining and mine entries and to provide recommendations (if any) for additional works/remediation required. It is stated that the site is underlain by made ground overlying very loose/loose sands and gravels and soft and firm clays, with shallow abandoned mine-workings present below. The report concludes that soils present do not represent a significant risk to future site users and that no remedial works are required. The groundwater risk assessment concludes that the site represents a low risk to the water environment. The report also states that based on recorded gas emissions to date and the recorded ground conditions, gas protection measures are required at the site but that the site is not located within a radon affected area and as such, radon gas preclusion measures are not considered necessary. Documentary information and borehole records indicate that the area is potentially underlain by mine-workings. It is stated that these workings may be limited in extent and that further, more detailed ground investigations are recommended to be undertaken below the area of proposed structures and any adoptable roads. The report goes on to state that there was no indication of the presence of any mine entries within the site, but that vigilance should be maintained during any ground works. Finally, the report states that due to the presence of made ground soils across the site, a full 600mm capping layer is considered necessary at the site – although it is outlined that this could be lowered by proof rolling the upper made ground and granular soils.

Tree Survey: There are no statutory protections on trees within the site. It is stated that the site comprises several groups of relatively young trees, with one substantial shelter/screening belt and one smaller group appearing to have been planted in conjunction with earlier developments on or adjacent to the site. Remaining groups are of common colonising species and appear to be self-generated, as do sporadic small trees on otherwise unpopulated parts of the site.

Design Statement: This statement sets out the design principles and concepts that have been applied to the proposed development, demonstrating how the context of the proposed development has been appraised and how the design of the proposed development takes the context into account. The statement subsequently outlines the applicant's approach to access, how the applicant considers that relevant Local Development Plan policies have been taken into consideration and how specific issues which might affect access to the proposed development have been addressed. The proposed foodstore comprises 1,916 sq. m gross internal area with a net sales area of 1,266 square metres; 103 standard car parking spaces, 8 disabled spaces, 11 Parent and Child spaces, 2 electric vehicle charging spaces and a trolley bay located adjacent to the proposed store entrance. The application also seeks planning permission in principle for the erection of up to 120 dwellings.

Transport Assessment: The assessment states that the proposed access strategy will remove the existing priority junction and introduce a 32m roundabout which it is stated as having been designed to accommodate the proposed development and background traffic levels. It is outlined that the proposed spine road will provide access to both the proposed retail and residential elements but will be a segregated route designed to be suitable to accommodate both land uses. Pedestrian and cycle access will also be from the spine road and offer a direct link to the existing footway network on Heathfield Road. The assessment further states that the required retail parking requirement is 130 spaces; however, the applicant states that 114 parking bays (103 standard and 11 parent and child) are sufficient based on the operator's experience of their store operations. 8 mobility impaired spaces are also proposed adjacent to the proposed store entrance. 10 cycle parking spaces are also proposed. The assessment concludes by stating that the proposed development site will be accessible by sustainable modes of travel and integrate effectively with the existing transport network following the introduction of additional non-car promoting measures. In addition, it is outlined that the site can be accessed safely from the adjacent road network by private vehicles without compromising the safety or efficiency of existing road users, thereby satisfying all policy requirements.

Acoustic Review: The review outlines the site and proposed development before outlining the assessment methodology used. It is stated that noise measurements were carried out between 0730 hours on Friday 11th June 2021 and concluded at 1100 hours on Tuesday 15th June 2021 to establish the existing noise levels at the site. Noise measurements were undertaken from one point within the application site, located approximately adjacent to the entrance to the first car parking spaces within the ASDA store, to the east of the site. The review states that this position was chosen as it is considered to be representative of the expected closest residential facades in the south-east corner of the proposed residential development (note this is an application for Planning Permission in Principle and no details of the proposed housing or housing layout have been submitted at this time) and based on the dominant noise sources in the area being activity along Heathfield Road and activity associated with the ASDA supermarket. The review also states that it is important to note that the survey was undertaken during the third enforced lockdown due to the COVID-19 pandemic, meaning that the noise levels recorded will be lower than would normally be typical. The review states that noise data collected at the expected most affected dwelling shows that the site would be considered suitable for residential development with the existing noise climate expected to have only a minor impact on the proposed development. The review also states that the BS4142 delivery noise assessment indicates no adverse impact based on daytime deliveries and that this could be extended to night-time deliveries with the introduction of simple and suitable acoustic screening around the service yard so as to protect new dwellings. The BS4142 assessment for plant noise demonstrates that this would be of low impact at all times of the day and night with solid screening eliminating any line of sight between the plant and the nearest dwellings. It is stated that assessing the plant against the typical planning requirement of the local authority showed that the resultant noise within the proposed dwellings will readily satisfy the standard condition by at least 8dB without any additional acoustic screening. Finally, it is stated that noise from the movement of cars within the customer car park during a peak hour has also been assessed and that the resultant noise levels will be at least 7dB below the lowest typical evening background noise level and therefore can be considered of low impact and not out of character for the area based on the existing traffic flow along Heathfield Road, the adjacent commercial retail parks, and existing ASDA car park/delivery activity.

Acoustic Review Addendum (February 2022): This report presents an addendum to the previously issued acoustic review of the site (above) and details the results of a second environmental noise monitoring position in the north-east of the site. Noise measurements were undertaken between 1400 hours Friday 14th January 2022 and 0900 hours Monday 17th January 2022. It is stated that the latest measurement position represents the location of the expected closest and therefore most likely affected new residential façade to any activity noise associated with the existing ASDA store operations and that due to the open and flat nature of the site, the noise levels measured at the second monitoring position are expected to be representative of the existing noise levels along the full northern boundary. It is further stated that the boundary of the ASDA store loading bay is approximately 100m from the nearest proposed new dwelling and that the believed 2.4m existing tall solid brick wall to the loading bay will offer significant levels of acoustic screening towards the proposed new dwellings. It is stated from subjective impressions on site and analysis of the sample audio recordings taken periodically during the second survey position, that none of the existing local noise sources would confidently qualify as including distinctive acoustic characteristics in the context of the existing soundscape at the northern boundary of the site and so would not typically require an assessment in line with BS4142. In their report produced on behalf of the existing ASDA site, Messrs Acoustic Consultancy Partnership Ltd state that the operation of the existing ASDA store should be considered as distinctive and therefore assessed in accordance with BS4142 to identify the potential impact at the proposed new dwellings. It is stated that the calculated level of acoustic impact outlined by the consultancy acting on behalf of ASDA does not immediately align with the subjective impressions of the site gained during attendances or through analysis of the audio recordings, with the summary assessment potentially overestimating the noise impact. The previous report issued by EEC Ltd (on behalf of applicant) concluded that the site is generally acceptable for residential development but would require closed windows at the new dwellings to achieve the level of façade sound separation required for BS8233:2014 compliance. The new northern survey suggests that this isn't required site wide and openable windows for the northern dwellings may result in appropriate ambient noise levels, dwellings towards the southern extent of the site (and in close proximity to the proposed Lidl store) would still require closed windows for acoustic comfort. The acoustic report provided on behalf of ASDA states that this goes against Good Acoustic Design. It is stated that whilst this is an aspiration, it is not always practical. However, it is stated that the outcome of this report, together with the original, show that with some small mitigation measures the site is suitable for residential development. Mitigation measures would be considered in designing the layout of the proposed dwellings. Finally, the review notes that there are residential dwellings in situ to the north-west of the ASDA store that could be expected to be subject to similar noise from activity in the service yard and presumably have adequate noise control measures in place or that the resultant noise levels are lower based on screening around the service yard.

Flood Risk Assessment: The document outlines the location of the application site and describes the topography of the site as relatively flat, with ground levels between approximately 13.9mAOD and 18.2MAOD. The highest ground levels are located along the eastern boundary, with the maximum ground level located in the south-east corner adjacent to Heathfield Road. The lowest ground levels are located in the south-west corner of the site. The assessment states that the site is at little or no risk from fluvial sources. In terms of surface water, historical development (including the culverting of a land drainage ditch and the construction of bunds both within and outwith the site) have caused or exacerbated surface water flood risk by restricting overland flows from leaving the site. Surface water and groundwater flood risks to the site require management and consideration in the design of the site but do not preclude the development of the site – measures should be put in place to intercept the surface water and discharge it to a suitable location such as the existing 750mm culvert along the northern perimeter of the site. The report states that it is likely that suitable measures will need to be put in place to mitigate against the risk of rising groundwater to the development. This could include the tanking of foundations and similar measures.

Planning and Retail Statement (August 2021): The statement sets out the site, pre-application consultation, the proposed development, Lidl operation and considers the proposal relative to national and local planning policy and other material considerations. It is stated that Lidl provides a distinct offer to the main convenience retailers and that this was recognised by the Competition Commission in its 2008 'Grocery Market Investigation'. It is also stated that this difference has also been acknowledged by the Secretary of State and Planning Inspectors in a number of appeal decisions relating to Lidl stores. Reference is made to a Planning Inspector report in relation to the London Borough of Merton (APP/T5720/V/04/1171394) when the Reporter concluded that "The Lidl offer is materially different to that provided by mainstream food retailers". The statement asserts that non-food items are limited to 15-20% of store floorspace and that Lidl stores also differ from other convenience retailers by operating shorter trading hours and by not offering the following: fresh meat and fish counters, pharmacy, café, cheese counter, hot food counter, photographic counter, dry cleaning service, mobile phone counter, click and collect or post office services. It is stated that Lidl stores serve a relatively compact catchment area that broadly equates to a 0–5-minute drive time. The sequential assessment undertaken has found that there are no suitable or available preferable sites to accommodate the proposed development and that the proposal complies with the SPP requirement for a sequential site assessment to be undertaken for new retail development which is not situated within a defined retail area. A full retail impact assessment is not required as the proposed store would be under 2,500 square metres; however, an impact assessment is provided for indicative purposes. The report uses a 7-minute drive time catchment area and states that the proposal would not have a significant adverse impact on the vitality and viability of Prestwick Town centre or any other centre. The report goes on to contend that there is a shortfall in the 5-year supply of effective housing land in the South Ayrshire Council area which means that the presumption in favour of sustainable development is engaged in SPP. 30% affordable housing is proposed. (Note: this has later been raised to 33%).

Note: the document contains several 'cut and paste' errors but these do not impact on the ability to undertake a full assessment of the planning application.

Retail Statement (letter dated 17 February 2022): Noted that since the submission of the planning application, the Report of Examination has now been published on the Local Development Plan 2 and that this recommends the adoption of the Proposed Modified Local Development Plan 2 (PMLDP2) subject to making the modifications as requested by the Reporters. As such, the PMLDP2 can now carry significant weight prior to its adoption by the Council. The letter states that the approach in PMLDP2 is a continuation of the policy approach in the current LDP, with the reasoning justifying the proposed development in the original Planning and Retail Statement remaining valid. Whilst the Council's comments in respect of Heathfield Commercial Centre make clear that its preference is to retain the existing policy approach, it is stated that it will consider each proposal on their own merits, particularly in relation to employment generating proposals and that it is for the applicant to justify the merits of the proposed development. The letter goes on to justify the catchment area methodology outlined within the Planning and Retail Statement and to maintain that there is a differentiation between discount and 'mainstream convenience retailers. Finally, the letter concludes with proposed conditions intended to ensure the operation of the retail unit as a discount foodstore.

Retail and Affordable Housing (letter dated 28 February 2022): Letter states aware that the Report of Examination has now been issued and that no changes are required to the modified LDP2 in respect of Heathfield Strategy (meaning that the designation of the site from development plan context remains unchanged from current LDP – bulky good retail uses) and that there is not a shortfall in relation to allocated private housing but that there is a substantial shortfall in planned affordable housing to meet identified needs over the LDP2 plan period. Also notes concerns in respect of delivering allocated housing in SE Ayr and the letter states that whilst the Reporter has concluded that there isn't a housing shortfall – from the context of LDP2 Examination – this does not mean that the Council is in possession of an effective 5-year housing land supply from the perspective of determining planning applications, especially as the current LDP remains the adopted development plan. The letter also notes the flexibility around the consideration of alternative uses on the site and consideration of the net economic benefit of proposals where there is appropriate justification and material considerations to outweigh the provisions of the development plan. Finally, the letter states that the applicant are seeking to increase the proposed level of affordable housing to 33% of the total residential provision.

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:**

19 representations have been received, 8 of which object (5 of which are on behalf of ASDA stores) and 11 which support the proposed development. All representations can be viewed online at www.south-ayrshire.gov.uk/planning.

The issues raised in the representations relate to the following points which have been grouped into subject matter:

Planning Policy

- Development is contrary to the South Ayrshire Local Development Plan, the Town Centre and Retail Local Development Plan (TCRLDP) and associated Supplementary Planning Guidance.
- TCRLDP designates site for “bulky goods and commercial leisure retailing” and LDP Policies: Heathfield and General Retail state that proposals for retail development at the site will be restricted to DIY, furniture, floor coverings, electrical and gardening goods.
- LDP Policy: General Retail states that if out of town retail proposed are agreed, then restrictions will be placed upon types of goods. When read with the site allocation of Heathfield – clear in the intent that food retail sales are not appropriate at this location.
- Planning and Retail statement is misleading – states that ASDA and The Food Warehouse are trading from Heathfield Commercial Centre (as outlined in TCRLDP) despite the restriction on food retail. However, The Food Warehouse operates from Site A which has a designation for 20% of the cumulative floorspace being available to sell ‘homeware goods’ and ASDA occupies Site B where food retail is permitted with restriction on comparison goods.
- Contrary to SPP as appropriate sequential retail test has not been undertaken – stated Lidl typically use 10-minute drive time but utilise 7-minute in this instance – no reasoning provided for this small catchment used, particularly given population which would drive from rural location. 10-minute drivetime represents a more appropriate catchment area.
- Ayr Town Centre should be included in sequential assessment as this is approximately 2km away.
- Applicant states sequential parameters for the site assessment should be a deep discount store but the application is for a Class 1 retail store.
- Applicant states that the site has no demand for restrictive retail; however, this is the policy position as taken forward in MLDP2.
- Applicant references relaxation of Units 2A, B and C to allow The Range to operate from Site A in the TCRLDP – Site A has allowance for food retail and Site C (application site) does not.
- Incorrect statement in applicant’s Planning and Retail Statement (paragraph 9.21) with it stated that as non-food retail floorspace is supported by existing policy at Heathfield, Class 1 retail is supported at the proposed site and the only justification required is in relation to supporting 80% convenience retail floorspace – the retail allocation is for bulky goods not convenience goods.
- Applicant suggests Lidl’s trading philosophy differs from a traditional supermarket by selling a limited core range – applicant has overstated the differences. If approved, the food retail floorspace could ultimately be occupied by any retailer.
- The site is not allocated for housing in either the adopted LDP or Modified Proposed Local Development Plan 2 (MPLDP2).

Noise / Inadequate Noise Assessment

- Acoustic Review uses incorrect methodology for assessing suitability of site for residential development – BS8233:2014 intended for the assessment of anonymous noise such as typical road traffic and general environmental noise, not suitable for assessment of the impact of industrial/commercial noise sources. Correct assessment methodology is BS4142:2014+A1:2019.
- BS4142:2014+A1:2019 confirms significant adverse impact from deliveries at night and home shopping activity.
- Original noise measurement location too far from ASDA service yard.
- Applicant's Acoustic Review (1) fails to consider existing ASDA noise sources and only considers proposed Lidl fixed plant and delivery activity.
- Acoustic Review relies on closed windows – against good acoustic design principles in latest guidance such as the 'Acoustics Ventilation and Overheating Residential Design Guide' published by the Association of Noise Consultants.
- Agent of change principle requires to be considered (responsibility of mitigating existing noise sources lies with proposed new development) – ASDA would not accept any future noise abatement action, 24-hour use of ASDA service yard is essential for ongoing operations.
- 2nd Acoustic Review does not provide sufficiently detailed information to allow meaningful evaluation of noise from night-time ASDA deliveries and home shopping operations on the proposed dwellings.
- Applicant's Acoustic Survey appears to have been unattended – no log of when activity taking place, for example, increased L_{Amax} levels each day between 05.00 to 06.00 hours but no comment on what caused this. Corresponds with start of home shopping,
- Based on activity noise levels at other ASDA stores and background noise levels established within the Acoustic Reports, ASDA delivery noise at night and home shopping operations will be sufficiently audible to risk future noise complaints.
- Bunds or solid boundary fences would not mitigate noise created at night due to bedrooms generally being located upstairs.
- The Environmental Health Officer (EHO) has misunderstood the nature of the application and has formed a view about windows being open that contradicts the applicant's position.
- The EHO states that if the noise standard when windows are open cannot be met then permission must be sought from the Planning Authority on a case by case basis. This negates the fact that through the grant of permission in principle, the issue of noise requires to be addressed now.

Traffic / Roads and Transportation

- Transport Assessment has not demonstrated that the site can be safely and suitably serviced without introducing road safety and highway maintenance issues – tracking shows HGV would cross centre line on the new access road and also appears to suggest it would overrun the splitter island at the new roundabout.
- No Saturday assessment has been provided in Transport Assessment, despite the proximity of Heathfield Retail Park and likely higher traffic flows – highway impact of the development has not been given due consideration.
- Access is only from Boundary Road Industrial Estate.
- Existing heavy traffic along Heathfield Road will be exacerbated and concerns expressed over child safety near the school.

11 representations in support of the application were received (including one from Ayrshire Housing) which state that the proposed development would be greatly beneficial as it would provide valuable and needed affordable homes in the short term, help to tackle the housing crisis and contribute to the Council's affordable housing ambitions, would make use of derelict/waste land, would increase retail choice at an affordable price, would provide direct and indirect employment, would fit in with the existing Heathfield Retail Park and that the proposed development includes walking and cycling provision.

A response to these representations is included within the assessment section of this report.

In accordance with procedures for the handling of planning applications the opportunity exists for either the applicant or those who have submitted representations to make further submissions upon the issue of this Panel Report, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning.

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), consultation responses received, representations received and the impact of the proposal on the amenity of the locality.

(i) **Development Plan**

Section 25 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. In this instance the development plan consists of the South Ayrshire Local Development Plan (hereafter referred to as LDP1) which was adopted in September 2014, its associated Supplementary Guidance and the adopted Town Centre and Retail Local Development Plan 2017 (hereafter referred to as TCRLDP).

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded their Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (hereafter referred to as LDP2) and issued their Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications.

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

Notwithstanding the above, it is first considered appropriate to assess the development proposal against the provisions of the adopted LDP due to the nature of the plan led system which is in place.

The development proposal can be considered as comprising two aspects, namely, detailed matters brought forward for the erection of a Class 1 retail store with associated works and planning permission in principle for the erection of up to 120 residential dwellings (of which 33% would be affordable). The site area is approximately 5.88 hectares and the proposed development would share a common access road, taken from a new roundabout junction on Heathfield Road. It is therefore considered appropriate to outline the assessment of the two elements separately below, firstly, the detailed matters brought forward for the proposed Class 1 retail foodstore and associated works.

Detailed matters brought forward for Class 1 foodstore, car parking access, landscaping and other works

Class 1 Retail foodstore development (Town Centre and Retail Local Development Plan 2017 – LDP Policy: Commercial Centres (Heathfield) and Policy: General Retail, LDP Policy: Spatial Strategy, LDP Policy: Sustainable Development, LDP Policy: Heathfield and LDP Policy: General Retail)

The proposed retail element of the development proposal relates to a foodstore (reasoned as a Lidl) of some 1,916 square metres gross floorspace (1,266 net floorspace), with a floorspace split of 80% for convenience goods and 20% comparison goods. The adopted policy provision is outlined in the Town Centre and Retail Local Development Plan, where policies use the sequential approach to guide proposals to the most appropriate location. In this context, it is noted that the Heathfield Commercial centre is a defined ‘third tier’ in South Ayrshire’s sequential approach, behind town centres and edge of centre locations and this is of particular importance in the assessment of the development proposal.

LDP Policy: Commercial Centres (Heathfield) is of particular relevance, with the application site identified as ‘Site C’ is the associated strategy map. The preferred uses for site C are listed as being ‘*proposals for retail development in the Heathfield area, which adjoin and integrate with the existing Heathfield Retail Park, as defined on the Heathfield Strategy Map, and which satisfy LDP Policy: General Retail, will be given preference, subject to the provision that the sale of goods will be restricted to DIY, furniture, floor coverings, electrical and gardening goods.*’ The development proposal does not comprise the type of store which rests comfortably within the definition of acceptable uses given in this policy. However, the policy provides further scope for consideration of the proposal under the provisions of the General Retail policy.

LDP Policy: 'General Retail' states that the Council will only consider retail at locations outside town centres if the development proposed is less than 1000 square metres gross floorspace and meets neighbourhood needs or where there are no other sites that would suit the sequential approach and:

- The scale, design and access arrangements are appropriate and there will be no significant negative effect on the vitality and viability of existing centres;
- The development site is well connected to public transport and walking and cycling networks; and
- Where there is clear evidence that the proposal will meet a qualitative or quantitative deficiency.

Paragraph 71 of Scottish Planning Policy (SPP) states: 'where development proposals in edge of town centre, commercial centre or out of town locations are contrary to the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing town centres is acceptable...'. In supporting information, the applicant asserts that the proposed retail foodstore would meet qualitative deficiencies in the local catchment relative to an assumption that discounter food retailing fulfils a particular niche and that there is a deficiency in this type of retailing within the locality. Numerous planning appeal determinations are provided by the applicant in supporting documentation in an attempt to assert the appropriateness of this assumed position. However, in terms of material considerations, the determination must be based on the physical requirements of a food retail store, the acceptability (or otherwise) of the proposal in policy and locational terms, the consideration of Scottish Planning Policy and any other material considerations. It is considered that the assumed occupier of the foodstore cannot be the determining factor of the planning application.

The applicant states that the Council should regard discount retailing as presenting a set of separate and unique characteristics and seeks to assert why the proposed development should be considered differently to any other form of class 1 food retailing. However, it is considered that the applicant has failed to provide satisfactory evidence to support this assertion, nor any mechanisms by which such a store could be conditioned to ensure such a use in perpetuity. With specific regard to the aforementioned, it is noted that the applicant has provided a set of conditions which they consider to be appropriate and to which they would be content to agree to, should the Council be minded to approve the application. However, it is considered that they do not adequately address the above concerns. Indeed, it is notable that none of the conditions seek to restrict the sale of items to a limited range of products, nor offer any definition as to what 'discount' means. The lack of such evidence lends considerable weight to the legitimate policy and practical terms mentioned above. It is considered that the applicant has failed to demonstrate why the store should be regarded as presenting a unique set of characteristics of such magnitude as to require a different approach to the assessment of the proposal. In terms of planning legislation and the Use Class (Scotland) Order, the store, once constructed, would be a Class 1 store with the simple condition relative to convenience goods and ancillary comparison.

Connected to the above, the applicant's supporting documentation seeks to assert that there is capacity relative to food retail expenditure based on an assumption that a discounter store's catchment model uses a population of some 15,000 and that the local catchment is some 38,000. It is considered that this statement confuses the requirements of the operator's business model with available retail expenditure and dismisses the full extent of discount supermarkets operating within the stated catchment drive time (which should include Ayr). It is also noted that although the catchment draw of the store is given as between 0 and 10 minutes drivetime, the supporting statement does not include Ayr town centre within that drive time, and consequently also fails to consider sites in Ayr relative to the sequential approach.

Furthermore, it is considered that the supporting documentation presents a simplistic approach which seeks to diminish the impact of additional floorspace based on the assumed trading model of a potential occupant (by, for example stating that the operator only stocks a small range of goods) rather than the impact of additional floorspace per-se. In so doing, the documentation asserts that the proposed store will not divert trade from Prestwick town centre and is again silent on any potential impacts on Ayr Town Centre. It is also of relevance that the proposal seeks 20% floorspace allowance for comparison goods. No assessment is provided on any potential impacts on town centre trading in this regard.

It is considered that there is reasonable doubt as to the validity of an asserted qualitative deficiency, particularly as this assertion conflates the issues of available capacity in food spending / impact on town centres with the operational model and the catchment defined by a particular prospective occupant. However, it is nonetheless pertinent to note that the policies of the Plan do not specifically require a retail impact assessment for a store of the size proposed... only assurances that there will be 'no significant negative effect on the vitality and viability of existing centres'. It is considered that the applicant has not undertaken a necessary sequential assessment of alternative locations – specifically relative to Ayr town centre. The applicant also relies on the potential operator's business model to dismiss concerns in relation to the impact on Prestwick town centre. The applicant was offered the opportunity to submit further information in respect of undertaking an appropriate sequential assessment; however, the applicant confirmed that the approach outlined in the submitted Retail and Planning Statement would not be added to.

Place Making (LDP Policy: Sustainable Development and LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites)

A key component of the LDP is ensuring that all development supports the principles of sustainable development, therefore LDP Policy: Sustainable Development is of importance. This policy outlines a number of tests which will be applicable in all circumstances in order to ensure that the principles of sustainable development are enshrined in the decision-making process. Of particular relevance to the considerations associated with this proposal is whether the proposed development is appropriate in terms of its layout, scale, massing and design in relation to its surroundings. As aforementioned, as the retail development proposal is considered contrary to retail policies, it can be stated that this proposed element is not fully in accordance with the principles of sustainable development. However, it is considered that the scale, design and layout of the proposed retail element is acceptable and it is noted that the Council's Landscape Officer offers no objection in relation to the proposed landscaping scheme, subject to the introduction of some tree planting. The policy also covers the acceptability of a development in respect of road safety, transportation implications and accessibility considerations. In addition, the policy also requires that the development includes sustainable urban drainage and avoids increasing risks of or from all forms of flooding. It is noted that Transport Scotland, the Ayrshire Roads Alliance, SEPA and Scottish Water offer no objection to the proposed development subject to conditions.

Impact on Flood Risk and the Water Environment (LDP Policy: Flooding and Development and LDP Policy: Water Environment)

LDP Policy: Flooding and Development states that development should avoid areas which are likely to be affected by flooding or if the development would increase the likelihood of flooding elsewhere. The policy also states that development proposals must include Sustainable Urban Drainage Systems (SUDS) and that flood risk management plans will be considered when determining development proposals. It is noted that ARA (as Flood Authority) and SEPA offer no objection to the proposed development in this respect.

LDP Policy: Water Environment states that we will not support development if it poses an unacceptable risk to the quality of controlled waters (including ground water and surface water) or would harm the biodiversity of the water environment. It is noted that SEPA and the ARA (as Flood Authority) offer no objection to the proposed development in this regard.

Impact on Traffic and Transportation (LDP Policy: Land Use and Transport)

The application is supported by a Transport Assessment which states that the proposed access strategy will remove the existing priority junction and introduce a 32m roundabout which it is stated as having been designed to accommodate the proposed development and background traffic levels. It is outlined that the proposed spine road will provide access to both the proposed retail and residential elements but will be a segregated route designed to be suitable to accommodate both land uses. The submitted Transport Assessment also states that the proposed development site will be accessible by sustainable modes of travel and will integrate effectively with the existing transport network following the introduction of additional non-car promoting measures. In addition, it is outlined that the site can be accessed safely from the adjacent road network by private vehicles without compromising the safety or efficiency of existing road users, thereby satisfying all policy requirements. It is noted that Transport Scotland and the Ayrshire Roads Alliance offer no objection to the proposed development subject to conditions. As such, the development proposal is considered to be in accordance with this policy.

Active Travel and Recreational Walking Routes (LDP Policy: Outdoor Public Access and Core Paths)

This policy states that we will aim to improve and protect all core paths and other significant routes. Development sites should include appropriate facilities for active travel and development next to or near the core paths network should provide suitable links to the network where appropriate. The site does not have any core paths or recorded rights of way through it and it is noted that provision is allocated for active travel modes of transport.

Report of Examination on LDP2

LDP2 carries over the principles of the Town Centre and Retail Local Development Plan with no material change in policy intent relative to the development of the Heathfield Commercial Centre for the proposed use. However, the applicant seeks to assert that Strategic Policy 1 of LDP2 lends support to the proposal (the inference being that this relates specifically to the retail element of the proposal). In seeking to justify the proposal on the grounds of Strategic Policy 1: Sustainable Development, the applicant wishes to draw comfort from the consideration of 'Net economic benefit'. However, with no indication of assessment as to the implications of additional retail floorspace relative to the impacts on town centre vitality and viability, it is considered that this cannot be substantiated. Furthermore, and within the above context, the Strategy Section of LDP2 (the Strategic Policies of which are the culmination of a set of principles within that section) states that the Council will prioritise the regeneration of town centres following the sequential approach to development (Core principle B4 in particular). It is considered that while it may be the case that the applicant could potentially demonstrate that preferable sites are not available; no comprehensive evidence has been submitted with the application submission to support such a position. The applicant also offers no explanation as to why an 'as the crow flies' distance from the application site to Prestwick town centre is stated but refers to a distance via main road when considering the distance from the application site to Ayr town centre.

In light of the aforementioned, it is considered that the principle of the retail element of the proposed development is contrary to the provisions of the adopted LDP, adopted TCRLDP and Report of Examination on LDP2.

Planning permission in principle for erection of residential development

Principle of residential development (LDP Policy: Spatial Strategy, LDP Policy: Sustainable Development, LDP Policy: Heathfield and LDP Policy: Residential Policy within Settlements, Release Sites & Windfall Sites)

A second component of the application seeks an in-principle determination for the erection of a residential development of up to 120 units, 33% of which would be affordable. As aforementioned, access to the site would be taken via a common access road, which would be taken from a new roundabout on Heathfield Road. The proposed residential development would have no 'road frontage', being as it is located to the north (rear) of the proposed retail unit/associated parking area and pre-existing commercial and business/industrial uses.

The application site is covered by retail / commercial policies as defined in the Town Centre and Retail Local Development Plan. Evidently, the proposed development is not in accordance with the preferred uses of the Heathfield Commercial Centres as defined in the TCRLDP; however, the relevant residential policies which govern alternative uses for sites are contained within the adopted Local Development Plan.

LDP policy 'Residential policy within settlements, release sites and windfall sites states: '*we will normal allow residential development within settlements subject to certain criteria, inter alia:*

- a. *The site has adequate access for vehicles, which is separate from other property and which directly connects to the public road network;*
- b. *The layout, density, scale, form and materials of any proposed development do not detract from the character of the surrounding buildings and the local area;*
- c. *It does not affect the privacy and amenity of existing and proposed properties;*
- d. *The site does not form an area of maintained amenity or recreational open space unless it is already part of the established land supply;*
- e. *the site provides a suitable residential environment; and*
- f. *it provided appropriate private and public open space in accordance with the requirements of LDP policy: open space, and our open space guidelines.*

We expect windfall sites to also meet the conditions above and comply with policies within the local development Plan'

Of the above stated conditions, criterion (e) is of particular significance in respect of determining the principle of residential development at the site. Other criteria are pertinent but are more appropriately considered in terms of detailed proposals. As stated above, the proposed residential site would not have any immediate access to a road frontage, being located to the rear of a range of commercial and industrial activities, including light and general industry uses. The site is consequently isolated from any other residential development and is surrounded by commercial and business uses.

It is notable that the **Heathfield Strategy Map within LDP Policy: Heathfield** identifies the land to the north and east of the application site as comprising land considered suitable for general industry and storage/ distribution uses. **LDP Policy: Business and industry** states that proposals for business and industrial uses within such areas must not have 'an unacceptable level of air or noise pollution'. The consideration of acceptability of noise generation (in particular) within an industrial area, compared to a location adjacent to housing may be fundamental in determining the acceptability of future industrial proposals. It is considered that residential development may therefore compromise the growth and development of the already established business / industrial area(s). Clearly, whilst it is not appropriate to prejudge or pre-empt any development proposal that may be advanced within the adjacent industrial area – or any potential restrictions on that industrial area that may arise as a consequence of being located adjacent to a residential area, the residential amenity afforded to the proposed new dwellings and conflict between those land uses is nonetheless relevant. The 'agent of change' principle is also of importance, which reasons that restrictions should not be placed on existing uses in an area as a result of a proposed development.

In respect of Housing Land Supply, the Council acknowledges and accepts that there was previously a shortfall in Housing Land Supply provision; however, matters have since altered and the Scottish Government's Report of Examination on LDP2 has determined that there will not be a shortfall in Housing numbers for the Plan period. The residential element of the development proposal relative to the Report of Examination on LDP2 is referenced following the assessment against LDP1.

Place Making (LDP Policy: Sustainable Development, LDP Policy: Open Space, Supplementary Guidance on Open Space and Designing New Residential Developments and LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites)

A key component of the LDP is ensuring that all development supports the principles of sustainable development, therefore LDP Policy: Sustainable Development is of importance. This policy outlines a number of tests which will be applicable in all circumstances in order to ensure that the principles of sustainable development are enshrined in the decision-making process. Of particular relevance to the considerations associated with this proposal is whether the proposed development is appropriate in terms of its layout, scale, massing and design in relation to its surroundings. The policy also covers the acceptability of a development in respect of road safety, transportation implications and accessibility considerations. LDP Policy Residential Policy within Settlements, Release Sites and Windfall Sites highlights particular need for a site to provide a suitable residential environment. As the residential element of the development proposal is seeking permission in principle, no layout has been provided in this respect. However, as reasoned elsewhere within this report, there is significant concern regarding the suitability of the site for residential development and as such, the proposal is considered to be at odds with the provisions of these policies.

Impact on adjoining land uses (LDP Policy: Sustainable Development, LDP Policy: Air, Light and Noise Pollution and LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites)

Noise, vibration and dust arising during the construction phase have the potential impact on the amenity of the residential properties that adjoin the site. It is accepted that noise vibration and dust could be reasonably mitigated through planning conditions; however, noise requires further detailed consideration in this case. The applicant submitted an Acoustic Review in support of the application; however, it was considered that the sample location was limited and did not consider the existing commercial/industrial noise receptors which adjoin the application site, only considering the proposed Lidl fixed plant and delivery activity upon the proposed residential properties. As such, the applicant was offered the opportunity to undertake a further noise assessment from a location closer to the service yard of the adjacent ASDA store. The applicant subsequently submitted an Addendum to the Acoustic Review, the selected location further to north-west of the site reasoned by the applicant as representing the closest proposed residential property to the adjacent ASDA service yard. The Addendum concludes that the application site is appropriate for residential development subject to mitigation measures that would be considered in designing the layout of the proposed dwellings. While the Council's Environmental Health Service offer no objection to the proposed development subject to conditions, there is concern in respect of the application site offering an appropriate level of residential amenity – particularly in respect of the 'agent of change' principle which was referenced earlier. The effect of the 'agent of change' principle is that developers proposing to develop a site for residential purposes should build into any planning application, a recognition that there are existing noise generating uses in the area (e.g. in this case the existing ASDA service yard) and mitigate within their own application, the impact of noise from those activities. Although the matter of noise mitigation would be considered within any future detailed approval of matters specified in conditions application (should this application be approved), the mitigation that will be required is unspecified and unknown at this time and there is the possibility that any mitigation measures in respect of noise could result in the erection of a very high fence or bund, for example, which in itself would have the potential of being to the detriment of visual and residential amenity. Further, and as discussed in more detail below, the Scottish Government's Report of Examination on LDP2 has determined the site to be unsuitable for residential development stating that "the sub area 'Boundary Road' which lies immediately to the north of Site C (the application site) is identified for general industrial use and trade retail. Such uses are unlikely to be compatible with an adjoining residential environment and I agree that introducing residential development may impact on the principle objective of directing commercial, business and industrial uses to the Heathfield area". It is therefore considered that it has not been evidenced satisfactorily that the proposed development meets with the provisions of the aforementioned policies.

Impact on Education (LDP Policy: Delivering Infrastructure)

The LDP Policy: Delivering Infrastructure requires development proposals to meet or contribute to the cost of providing or improving facilities or infrastructure required as a result of the development. The Council's Schools and Service Support anticipate that the catchment area primary schools relative to the proposed development, St John's Primary School and Heathfield Primary School would be able to accommodate children from a 120-dwelling development on Heathfield Rd. However, it is also stated that the associated secondary school, Prestwick Academy, is currently at capacity and that there are some concerns over where secondary age pupils arising from the development would be accommodated. Education contributions would therefore be required from the developer, should the application be approved. In view of the above, it can reasonably be concluded that the development proposal is potentially in accordance with this policy.

Affordable Housing (LDP Policy: Affordable Housing)

The Affordable Housing policy sets out a target contribution of 25% affordable housing from all new housing developments of 15 units or more, or a site size equal to or more than 0.6 hectares. In this instance the applicant has indicated that it is their intention to provide in excess of the 25% contribution on site, namely 33% or 40 units. In the case where planning consent is granted there would be an obligation for the applicant to enter into a S75 agreement before planning permission could be issued. This would provide the detail of the delivery mechanisms for Affordable Housing in a sequential manner with onsite provision of social rented at the top. If the principle of the proposed development was considered to be acceptable, it would be possible to secure the 33% affordable housing proposed by the applicant through a Section 75 legal agreement.

Low and Zero Carbon Buildings (LDP Policy: Low and Zero Carbon Buildings)

The Council has not yet prepared the supplementary guidance outlined within this policy. The building warrant process will ensure that the necessary buildings standards requirements are met.

Report of Examination on LDP2

In terms of LDP2, the applicant acknowledges in the submission that there is now not a shortfall in relation to allocated private housing but states that there is a substantial shortfall in planned affordable housing to meet identified needs over the LDP2 plan period. The applicant also notes concerns in respect of delivering allocated housing in South East Ayr and states that whilst the Reporter has concluded that there isn't a housing shortfall – from the context of LDP2 Examination – this does not mean that the Council is in possession of an effective 5-year housing land supply from the perspective of determining planning applications, especially as the current LDP remains the adopted development plan. In response to this matter, South Ayrshire Council has recently given notice to the Scottish Government of its intention to adopt LDP2. The applicant also notes the flexibility around the consideration of alternative uses on the site and consideration of the net economic benefit of proposals where there is appropriate justification and material considerations to outweigh the provisions of the development plan. However, the Report of Examination has determined that the application site is not an appropriate location for residential development and that the continued identification of the site as defined in LDP1 is appropriate.

The Scottish Government's Report of Examination represents a key material consideration in the assessment of the application and the Report further concludes that there is no requirement to identify any additional land for residential development to meet requirements in the period of the Plan and that any shortfall in affordable housing provision will likely be met through the operation of the affordable housing policy within the context of the effective and established housing land supply. This is the position at the time of writing this report and the application must be assessed in such a manner at this moment in time. In light of the aforementioned, it is considered that the application site does not represent a suitable location for residential development and is contrary to the provisions of the soon to be adopted LDP2.

Conclusions on Assessment Against Development Plan

The foregoing assessment against the relevant local development plan policies indicates that the proposals are not fully consistent with the Development Plan, therefore it is recommended that the application be refused.

The provisions of the Adopted South Ayrshire Local Plan 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.

As with the assessment against LDP1, the proposal is considered to be contrary to the principles of LDP2, as expressed within the Scottish Government's Report of Examination.

(ii) Other Policy Considerations (including Government Guidance)

Scottish Planning Policy (SPP): This policy notes that the planning service should be plan led, with plans being up to date and relevant. In this instance the development plan consists of the South Ayrshire Local Development Plan, which was adopted in September 2014, the Town Centre and Retail Development Plan (adopted 2017) and the materially significant Report of Examination on Local Development Plan 2. Paragraph 71 of Scottish Planning Policy (SPP) states: 'where development proposals in edge of town centre, commercial centre or out of town locations are contrary to the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing town centres is acceptable...'. As reasoned elsewhere within this report, it is not considered that the applicant has sufficiently evidenced that sequentially preferable sites are not available and relies on a potential operator's business model rather than carrying out an appropriate sequential assessment – particularly in respect of the potential impact to Ayr town centre.

Paragraph 28 of SPP states that "the aim is to achieve the right development in the right place; it is not to allow development at any cost". A key element in the assessment of the application is whether it aligns with the overarching provision of policies within LDP1 and the Report of Examination on LDP2. For the reasons already outlined, it is considered that the proposals fundamentally do not accord with policy provision and that the development proposal is therefore deemed not in accordance with SPP.

Creating Places

Creating Places is the Scottish Ministers' policy statement on architecture and place, which contains policies and guidance on the importance of architecture and design. It considers 'place' to comprise: the environment in which we live, the people that inhabit these spaces and the quality of life that comes from the interaction of people and their surroundings and states that architecture, public space and landscape are central to this. While the creation of a successful place results from the interaction of a wide range of factors, in this case, the proposed residential development at the site is considered to be at odds with this Government advice due to the Report of Examination on LDP2 stating that the application site is not an appropriate location for residential development.

Designing Streets

Designing Streets is the Scottish Ministers' policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets. New developments should demonstrate the 6 qualities of successful places; distinct identity, safe and pleasant, easy to move around (especially on foot), sense of welcome, adaptability and sustainable (i.e. make good use of resources). It is considered that the proposed residential development would not meet all the qualities of a successful place. The proposed development is therefore considered contrary to this advice.

(iii) Consultation Responses

Whilst it is noted that Environmental Health offer no objection to the proposed development, the Council as Planning Service raised concerns with the applicant, from a planning perspective, in respect of the originally submitted Acoustic Review. An addendum to this review was submitted by the applicant which considered an additional location for noise monitoring within the application site. Environmental Health were also consulted on this additional Acoustic Review and offer no objections. An objection letter raises concerns over the 2nd Environmental Health consultation response stating that *'all properties should be able to meet the noise standard when windows are open'*. While the objector reasons this to mean that the Environmental Health Officer is stating that all proposed dwellings will meet the standard, it is rather the position that the word 'should' could be replaced by 'require to', i.e. there is a need to meet the standard. Notwithstanding, the Planning Service is of the opinion that it has not been satisfactorily shown that the proposed residential development would not be subject to adverse noise from existing adjacent receptors to the detriment of residential amenity, particularly in respect of the 'agent of change' agenda. The other consultees have either not responded or have responded to the effect that they have no objection subject to conditions.

(iv) Representations Received

It is considered that the material planning issues raised in the letters of objections are addressed in the Assessment Section of this report, however a summary response is provided below.

Planning Policy: Issues relating to planning policy and housing supply are fully assessed under Section 7(i) of this report. It is considered that the development proposal is contrary to the provisions of the adopted Local Development Plan and soon to be adopted Local Development Plan 2.

Noise / Inadequate Noise Assessment: Issues relating to noise and the acoustic reviews are fully assessed under Section 7(i) and Section 7(iii) of this report.

Traffic / Roads and Transportation: It is noted that Transport Scotland and the Ayrshire Roads Alliance offer no objection to the proposed development. The ARA recommend conditions in respect of the following: submission of a Travel Plan (targeting both customers and staff), new roads infrastructure top adoptable standards, access construction, discharge of water, parking bay dimensions, off road parking provision (minimum of 117 off road spaces – 114 proposed within submission), cycle parking provision, submission of a Servicing Management Plan, wheel washing facilities, submission of a Construction Traffic Management Plan, bus stop (RTPI upgrades), submission of a Residential Travel Pack, turning areas, vehicle swept path analysis, bin collection points and .SUDS. Both Transport Scotland and the ARA recommend a condition limiting the residential element to 120 dwellings. In respect of no Saturday assessment having been undertaken within the Transport Assessment, in view of no objection having been received from either Transport Scotland nor the ARA, it is considered that the proposed development does not create any significant traffic or transport issues. In respect of the objection which states that there is only access from Boundary Road, access to the site is proposed from Heathfield Road.

The 11 representations in support of the proposed development are noted (including from Ayrshire Housing). The representations in support of the application state that the proposed development would be greatly beneficial as it would provide valuable and needed affordable homes in the short term, help to tackle housing crisis and contribute to the Council's affordable housing ambitions, would make use of derelict/waste land, would increase retail choice at an affordable price, would provide direct and indirect employment, would fit in with the existing Heathfield Retail Park and that the proposed development includes walking and cycling provision. These points do not alter the terms of the policy assessment of this application.

(v) Impact on the Locality

It is considered that the application should be considered in the context of a plan led system, as advocated in Scottish Planning Policy, and in line with the policies which form part of the adopted local development plan. The principle of development of this land for retail foodstore purposes has not been justified and the site is not considered to be appropriate for residential development, as confirmed in the Report of Examination for LDP2.

8. Conclusion:

The proposed development is contrary to the South Ayrshire Local Development Plan (LDP1), Town Centre and Retail Local Development Plan (TCRLDP), Report of Examination on LDP2 and Scottish Planning Policy. Given the above assessment of the proposal and having balanced the applicant's right against the general interest, the application is recommended for refusal.

9. Recommendation:

It is recommended that the application is refused for the reasons noted below.

Reasons:

Principle of Development – Retail foodstore

1. The proposed development is contrary to the Town Centre and Retail Local Development Plan 2017 – LDP Policy: Commercial Centres (Heathfield) and Policy: General Retail, LDP Policy: Heathfield and LDP Policy: General Retail and Scottish Planning Policy by reason that the applicant has not undertaken and demonstrated an appropriate sequential retail assessment in respect of the proposed foodstore. There are no over-riding reasons to depart from the policies as detailed in the South Ayrshire Local Development Plan or the Report of Examination of LDP2.

Principle of Development – Residential

2. That the proposal is contrary to South Ayrshire Local Development Plan Policy: Sustainable Development, LDP Policy: Heathfield, LDP Policy: General Retail, LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites, Town Centre and Retail Local Development Plan, Report of Examination on LDP2, the Scottish Government's 'Designing Streets and 'Creating Places' Guidance and Scottish Planning Policy by reason that the application site does not represent a suitable location for residential development.

List of Determined Plans:

Drawing - Reference No (or Description): 2408_301 Rev A – Site Location Plan

Drawing - Reference No (or Description): 2408_302 – Proposed Masterplan PPP

Drawing - Reference No (or Description): 2408_302 – Extent of Full Planning and PPP Elements

Drawing - Reference No (or Description): 2408_303 Rev A – Proposed Site Layout (Store)

Drawing - Reference No (or Description): 2408_304 – Proposed Building Plan

Drawing - Reference No (or Description): 2408_305 – Proposed Elevations

Drawing - Reference No (or Description): 2408_306 – Proposed Roof Plan

Drawing - Reference No (or Description): 2408_307 Rev A – Proposed Surface Finishes

Drawing - Reference No (or Description): 2408_308 Rev A – Proposed Boundary Treatments (Store)

Drawing - Reference No (or Description): R/2478/1A – Landscape Details

Drawing - Reference No (or Description): SQ4S-PV-LIDL-ECOS-P1951-R-A Revision A – PV – Roof Layout

Other - Reference No (or Description): Pre-Application Consultation Report

Other - Reference No (or Description): Planning and Retail Statement (Aug 2021)

Other - Reference No (or Description): Retail Statement Letter (17 Feb 2022)

Other - Reference No (or Description): Retail and Affordable Housing Letter (28 Feb 2022)

Other - Reference No (or Description): Design Statement

Other - Reference No (or Description): Report on Site Investigations (1) – March 2021

Other - Reference No (or Description): Report on Site Investigations (2) – May 2021

Other - Reference No (or Description): Tree Survey

Other - Reference No (or Description): Acoustic Review

Other - Reference No (or Description): Acoustic Review Addendum (Feb 2022)

Other - Reference No (or Description): Transport Assessment

Other - Reference No (or Description): Flood Risk Assessment

Other - Reference No (or Description): Preliminary Ecological Appraisal

Background Papers:

1. Application form, plans and submitted documentation
2. Consultation responses
3. Representations
4. Adopted South Ayrshire Local Development Plan
5. Adopted Town Centre and Retail Local Development Plan
6. Report of Examination on Local Development Plan 2
7. Scottish Planning Policy
8. Scottish Government Guidance 'Creating Places'
9. Scottish Government Guidance 'Designing Streets'
10. Agent of Change: Chief Planner Letter February 2018
11. Proposal of Application Notice 21/00241/PAN

Equalities Impact Assessment

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Mr Alastair McGibbon, Supervisory Planner (Place Planning) - Telephone 01292 616 177

REGULATORY PANEL: 23 JUNE 2022**REPORT BY PLACE DIRECTORATE****22/00198/APP****PLOT 1, KNOCKENDALE FARM C93 FROM B730 JUNCTION NORTH WEST OF BOGEND
SOUTH WEST TO BREWLANDS ROAD SYMINGTON SYMINGTON SOUTH AYRSHIRE KA1
5PN****Location Plan**

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Summary

Planning permission is sought for the erection of a dwellinghouse on land at Knockendale Farm, north east from Symington. The site is located in a rural area which is defined in the Adopted South Ayrshire Local Development Plan as; Core Investment Area. The application comprises an area of agricultural land located adjacent in an area known locally as 'High Knockendale'. Planning permission in principle was granted under application 21/00614/PPP for the erection of two dwellinghouses on an area of land at Knockendale Farm. Application 21/00614/PPP was granted on the basis that the proposal represented the opportunity for a limited expansion to consolidate and enhance an existing cluster, without adverse impact on the amenity of the locality.

The application has been assessed against the various material planning considerations which include the provisions of the development plan, the emerging development plan, the Council's Rural Housing Supplementary Planning guidance, Scottish Planning Policy, PAN72, consultations, representations received (including an objection from Symington Community Council), and the impact of the proposed development on the locality. The assessment concludes that the proposed development broadly aligns with the policy provisions of the local development plan and the emerging local development plan. The consultation responses do not raise any issues of over-riding concern. The matters raised in the representations have been fully considered, but do not raise any issues that would merit a different recommendation. Overall, there are no policy objections. It is considered that the proposal will not have an unacceptable impact on the character, setting or appearance of the site, or the wider locality. The application has been considered in this context. Accordingly, the application is recommended for approval, subject to conditions.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00198/APP
SITE ADDRESS:	PLOT 1, KNOCKENDALE FARM C93 FROM B730 JUNCTION NORTH WEST OF BOGEND SOUTH WEST TO BREWLANDS ROAD SYMINGTON SYMINGTON SOUTH AYRSHIRE KA1 5PN
DESCRIPTION:	ERECTION OF DWELLINGHOUSE
RECOMMENDATION:	APPROVAL WITH CONDITIONS

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal:

Planning permission is sought for the erection of a dwellinghouse on land at Knockendale Farm, north-east from Symington. The submitted drawings show the house to be centrally positioned within the site. The dwellinghouse is 1 ½ storeys and occupies a footprint of approximately 225 sq. m. The proposed external materials comprise off white wet cast render, grey facing stone, natural slate or slate like material, anthracite uPVC windows and doors. A new access is to be formed to the south-east of the site which leads to/ from the C93 which bounds the site.

The application site is set within a rural area and comprises an area of agricultural land located adjacent to an area known locally as 'High Knockendale'. High Knockendale comprises a cluster of 7 dwellings located approximately 500m from the northern edge of the village of Symington. Access to High Knockendale is taken directly from the C93. The application site extends to an area of approximately 1170 square metres with access to the site proposed from a newly formed access which connects directly to the C93.

Planning History

Planning permission in principle application 21/00614/PPP was approved by the Council's Regulatory Panel on 6th October 2021 for the erection of 2 dwellinghouses.

Planning in principle application (16/00839/PPP), which proposed the erection of 2 x dwellinghouses and associated access road, was refused in November 2016.

Planning in principle application (21/00037/PPP), which proposed the erection of 3 x dwellings, was withdrawn by the applicant's agent.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as more than five competent written objections have been received from separate households and the Symington Community Council has expressed a contrary view to the recommendation that this planning application be approved.

2. Consultations:

Ayrshire Roads Alliance - offer no objection.

Scottish Water - offer no objection.

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:

8 representations have been received, 7 of which object to the proposed development, including an objection from the Symington Community Council. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The issues raised by Representees can be summarised as follows: -

- Concerns relating to the landscape impact, layout, design, and visual appearance of the development;
- Road safety concerns as proposals do not meet statutory sightline requirements and are also contrary to PAN 72;
- Drainage/ surface water run-off and flooding issues;
- Inadequate room within the site to accommodate SUDS;
- No hedging proposed which was a requirement of planning permission in principle application 21/00614/PPP;
- Overshadowing concerns; and
- Difference in site boundaries from the proposals submitted in planning permission in principle application 21/00614/PPP.

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. 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.

(i) Development Plan

Section 25 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 following provisions of the development plan are considered relevant to the consideration of this application:

The proposal has been considered against the Local Development Plan's Spatial Strategy and is in accordance with the strategy.

The following policies are relevant in the assessment of the application and can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/planlpdocuments.aspx>

- o Spatial Strategy - Core Investment Area;
- o Sustainable Development; and
- o Rural Housing.

The spatial strategy of the local development plan seeks to encourage sustainable economic growth, improve the quality of the environment and to create sustainable communities. The LDP Rural Housing policy also allows for housing to be built within rural areas, in accordance with its provisions, and the related provisions of the Council's supplementary planning guidance entitled Rural Housing.

With reference to the above planning history of the site, it is noted that planning permission in principle was granted under application 21/00614/PPP for the erection of two dwellinghouses on an area of land at Knockendale Farm, north-east from Symington. Application 21/00614/PPP was granted on the basis that the proposal represented the opportunity for a limited expansion to consolidate and enhance an existing cluster, without adverse impact on the amenity of the locality. The provisions of the development plan remain unchanged since the grant of planning permission 21/00614/PPP, as does the Council's supplementary guidance in relation to Rural Housing. The provisions of the LDP and related guidance allow for limited development within rural areas, in this context the current application is considered to accord with the development plan, and related supplementary guidance. Additionally, the grant of permission 21/00614/PPP is materially significant in the determination of this current application in that it establishes the acceptability of the larger portion of the site proposed under the current application for residential development; the application has been assessed in this context.

The statutory Local Development Plan (LDP) for the area currently comprises the South Ayrshire Local Development Plan (adopted in September 2014) and its associated Supplementary Guidance, as well as the Town Centre and Retail Local Development Plan, adopted in 2017.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications. The application site is designated as a rural area within the Adopted South Ayrshire Local Development Plan and this remains unchanged with LDP2. The application has been considered in this context.

(ii) Other Policy Considerations (including Government Guidance)

- o Scottish Planning Policy;

Scottish Planning Policy forms the statement of the Scottish Government's policy on nationally important land use planning matters. Paragraph 75 states that "the planning system should:

- o In all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces;

- o Encourage rural development that supports prosperous and sustainable communities and business whilst protecting and enhancing environmental quality.

The erection of additional residential properties located on land at Knockendale Farm, north-east from Symington has already been considered against the terms of Scottish Planning Policy as part of the assessment of the previously approved application (21/00614/PPP) and has been considered to be acceptable.

- o South Ayrshire Council - Rural Housing Policy;

The SPG policy states that additions to clusters (defined as consisting of 2 or more houses forming a clearly identifiable group, with strong visual cohesion and sense of place) will be acceptable, subject to the following criteria;

- a) the proposal is sympathetic to the character and landscape setting of the existing cluster.
- b) the development represents the sensitive in-filling of any available gap sites consolidating existing dwellings within the cluster.
- c) the development has a clear relationship with the existing cluster by being physically connected with the cluster.
- d) the proposed design solution is in keeping with the character and built form of the existing cluster and otherwise complies with design guidance in the supplementary guidance.
- e) The proposal does not expand the cluster by more than 50% of the number of houses within that group (rounded up to nearest single dwellinghouse) as at date of adoption of this supplementary guidance.

The erection of additional residential properties on land at Knockendale Farm, north-east from Symington has already been considered against the terms of the Council's Rural Housing supplementary guidance as part of the assessment of the previously approved application (21/00614/PPP) and has been considered to be acceptable. The design of the proposed dwellinghouse, the details of which are submitted under the current application, is considered to provide an acceptable vernacular building of a suitable scale and appearance.

- o Planning Advice Note 72 - Housing in the Countryside (2005);

Scottish Government Planning Advice Note 72 - Housing in the Countryside is also relevant in the assessment of this application. The advice note recognises the significance of the scale and shape of Scotland's domestic rural architecture, which is derived largely from the simplicity of the form and proportion. Page 16 advises that the main objective should be to adapt the best from the local elements and to interpret traditional shapes and sizes into a modern context. It is considered that the proposal is consistent with the provisions of PAN72.

- o South Ayrshire Council Supplementary Planning Guidance - Open Space and Designing New Residential Developments;

The Council's Supplementary Planning Guidance (SPG) 'Open Space and Designing New Residential Developments' is relevant in the consideration of this application. This policy provides guidelines on plot spacing for new residential dwellings including minimum private garden sizes. This policy guidance also recommends a minimum of 9 metre depth for rear gardens. This policy also sets out expected private open space standards within new residential developments, which for detached properties extends to a minimum of 1.5 times the ground floor area and in any case, not less than, 100 square metres. The proposed plot extends to approximately 1,170 sq. metres in total, and the proposed house has a footprint of approximately 225 sq. metres and is to be positioned centrally within the site. A new access is to be formed at the south of the application site while the remaining ground will comprise existing/ proposed trees and open space. Overall, the development proposal is considered to meet the quantitative standards as set out in the above supplementary planning guidance.

(iii) Objector Concerns

The representations received in relation to the proposal are noted, and the following response is offered:

- o Concerns relating to the landscape impact, layout, design, and visual appearance of the development;

The footprint of the proposed houses shall occupy approximately 225 sq. m. of the overall plot, with the remainder of each plot being utilised for circulation space and garden ground provision. The proposed house is set away from shared common boundaries and is to be screened via the existing boundary treatment, and by new hedge (see planning condition 3, below). It is therefore considered that the proposed development can be absorbed within the landscape without compromising the visual amenity of the locale. An assessment of the proposed dwellings design and visual appearance are set out elsewhere in this report.

- Road safety concerns as proposals do not meet statutory sightline requirements;

The Ayrshire Roads Alliance (ARA) offer no objection to the application proposals and therefore the proposals are considered acceptable from a road safety perspective. It is acknowledged that the proposal will result in some additional traffic to the area, however, given the small-scale nature of the proposal (i.e., a single dwellinghouse) it is not considered that this will be so significant so as to warrant the refusal of the application.

- Drainage/ surface water run-off and flooding issues;

The principle of the development for the erection of 2 dwellinghouses at High Knockendale has already been granted planning permission in principle. Notwithstanding, the application site is located outwith SEPA's identified flood risk area and ARA raise no objection to the proposal within the capacity as their role as local flood prevention authority.

- Inadequate room within the site to accommodate SUDS;

A condition has been recommended which requires for full details of SUDS arrangements within the plot to be submitted for the written approval of the Planning Authority, prior to the commencement of works on site.

- No hedging proposed which was a requirement of planning permission in principle application 21/00614/PPP;

Noted. A condition has been recommended which requires for the rear (southern) boundary of the application site to be delineated by way of hedging.

- Overshadowing concerns and residential amenity;

In terms of residential amenity, the closest residential properties at Heather Lodge and Kilberry House are located in excess of 20 metres approximately from the front elevation of the proposed dwellinghouse. It is considered that the proposed dwellinghouse, which reaches a height of approximately 7.4 metres, is sited a sufficient distance from neighbouring dwellings so as not to create adverse overshadowing concerns,

- Difference in site boundaries from the proposals submitted in planning permission in principle application 21/00614/PPP.

It is noted that the identified red line site proposed by the current application differs from that approved by planning permission in principle application 21/00614/PPP. The assessment requires to consider the red-line site and proposal submitted by the current application. It should, however, be noted that the principle of the development for the erection of 2 dwellinghouses at High Knockendale has already been granted planning permission in principle and this is a significant material consideration to the assessment of the current application.

(iv) Impact on the Locality

The principle of residential development on land at Knockendale Farm, north-east from Symington has already been considered to be acceptable under application 21/00614/PPP. This permission is materially significant in the consideration of the current application in that the site proposed under this application occupies part of the larger site previously proposed under application 21/00614/PPP. It remains the case that the application site, along with the adjacent dwellings, is considered to represent a cluster in physical and visual terms and therefore the principle of erecting a dwellinghouse in this location is acceptable in terms of the LDP and related supplementary guidance. As noted above, the current application also involves the formation of an access road. The access road is acceptable in visual amenity and road safety terms and considered to meet with the provisions of the SALP and Rural Housing SG.

In terms of siting, the submitted drawings show the proposed dwellinghouse to be positioned centrally within the application site. It is considered that the proposed house is of a height, scale, mass and design which is appropriate for a rural location. The proposed dwellinghouse is not considered to detract from the character and appearance of the locality. The proposed house is 1 ½ storeys in height and the finishing materials are considered to be appropriate for the rural location. In terms of residential amenity, the closest residential properties at Heather Lodge and Kilberry House are located in excess of 20 metres approximately from the front elevation of the proposed dwellinghouse. As such, it is considered that the proposed house is set sufficiently far enough away from neighbouring properties so as not to adversely impact on their residential amenity.

The submitted plans also show that trees are to be planted as part of the application proposals. However, to preserve that the landscape setting of the application site, it is considered necessary to attach a condition to the planning permission which requires for the rear (southern) boundary of the application site to be defined by way of appropriate hedging. For these reasons, it is considered that the site can be developed without significant adverse impact on the landscape setting of the site.

It is also noted that the proposed SUDS is to be located within the curtilage of the application site. It is proposed to attach a condition which requires for full details of the system to be submitted for the prior written approval of the planning authority before the commencement of development on site.

In terms of the road safety/ traffic impact of the development proposals, the Ayrshire Roads Alliance has been consulted on this application and offers no objection.

For the reasons noted above, and elsewhere in this report, it is considered that the proposal will not have an adverse impact on the rural character and appearance of the area, or on the residential amenity of the neighbouring properties.

8. Conclusion:

There are no policy objections to this proposal, and it is considered that this proposal will not have an adverse impact on the character or residential amenity of the surrounding area, nor will it have an adverse impact on the character, appearance or setting of the rural area. Given the above and having balanced the applicant's rights against the general interest, it is recommended that the application be approved subject to conditions.

9. Recommendation:

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

- (1) 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.
- (2) That full details of SUDS arrangements within the approved plot shall be submitted for the written approval of the Planning Authority, prior to the commencement of works on site, and shall be prepared in accordance with the provisions of Scottish Environment Protection Agency (SEPA) Guidance Note No.8 and thereafter shall be implemented in accordance with the arrangements to be approved under the terms of this condition.
- (3) That notwithstanding the plans hereby approved, the rear (southern) boundary of the application site shall be delineated by way of native hedging, the details of which shall be submitted for the prior written approval before the commencement of development on site. Thereafter, the native hedging scheme as approved shall be implemented within first planting season following the completion or occupation of the dwellinghouse, whichever is the sooner.
- (4) That prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and thereafter implemented in accordance with the details to be approved under the terms of this condition.

Reasons:

- (1) To be in compliance with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning Etc. (Scotland) Act 2006.
- (2) To ensure the site is drained in an acceptable and sustainable manner.
- (3) In the interest of visual amenity, and so as to retain the rural character and setting of the locality.
- (4) In the interests of visual amenity.

Advisory Notes:

N/A.

List of Determined Plans:

Drawing - Reference No (or Description): 0801 PP 0.01

Drawing - Reference No (or Description): 0801 PP 1.01

Drawing - Reference No (or Description): 0801 PP 1.02

Drawing - Reference No (or Description): 0801 PP 1.03

Reason for Decision (where approved):

The siting and design of the development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Background Papers:

1. Application form, plans and submitted documentation
2. Representations
3. Adopted South Ayrshire Local Development Plan
4. Modified Proposed Local Development Plan 2
5. Town Centre and Retail Local Development Plan
6. Rural Housing Policy Guidance
7. Supplementary planning policy in relation to 'Open Space and Designing New Residential Developments'.
8. Planning Advice Note 72 - Housing in the Countryside (2005);
9. Scottish Planning Policy
10. Planning permission in principle application 21/00614/PPP
11. Consultations

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Mr David Clark, Supervisory Planner (Place Planning) - Telephone 01292 616 118

REGULATORY PANEL: 23 JUNE 2022

REPORT BY PLACE DIRECTORATE

22/00164/APP

WATER PIPE ADJACENT TO GREGG BRIDGE B734 FROM A714 JUNCTION AT PINMORE BRIDGE TO BARR PINMORE SOUTH AYRSHIRE

Location Plan



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Summary

Planning permission is sought for the installation of handrailing and a signpost with associated safety signage. The development is proposed on the basis that the applicant considers the works to be essential to meet current health and safety requirements.

The proposed handrail is to be erected within an area of open space on the northern bank of the river Gregg, adjacent to the existing water pipe and shall have a height of approximately 1.1 metres and a width of approximately 3 metres. The handrail shall be painted dark green in colour to match other fencing erected within Barr conservation area. A 1.1 metre signpost is to be erected within an area of open space on the southern bank of the river, adjacent to the existing water pipe.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the application site is land in the ownership of South Ayrshire Council and the application has received 1 or more competent written objections. A total of 3 representations have been received objecting to proposal. 1 neutral representation has been received on behalf of Barr Community Council.

The development has been assessed against the relevant policies of the adopted South Ayrshire Local Development Plan and other applicable material considerations and it is considered that – suitably conditioned – the proposal accords with the provisions of the aforementioned local development plan.

Accordingly, it is recommended that the application is approved subject to conditions.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00164/APP
SITE ADDRESS:	WATER PIPE ADJACENT TO GREGG BRIDGE B734 FROM A714 JUNCTION AT PINMORE BRIDGE TO BARR PINMORE SOUTH AYRSHIRE
DESCRIPTION:	INSTALLATION OF HANDRAILING WITH SIGNAGE
RECOMMENDATION:	APPROVAL WITH CONDITIONS

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal:

The site of the proposed development is land adjacent to an existing water pipe which crosses the River Gregg, Barr. The site is situated approximately 18 metres from the C listed Gregg Bridge and approximately 6 metres from Stinchar Road. The application site is also located within Barr Conservation Area.

The existing water pipe that crosses the burn is above ground, is accessible to the public and currently has no access restrictions or advisory warning signage. Planning permission is sought for the installation of handrailing on the northern bank of the river and a signpost with associated safety signage on the southern bank of the river. While the water pipe has been in place for some time without an associated handrailing or signpost, the development is proposed on the basis that the applicant considers the works to be essential to meet current health and safety requirements

The proposed handrail shall have a height of approximately 1.1 metres and a width of approximately 3 metres and shall be painted dark green in colour to match other fencing erected within Barr conservation area. The signpost would measure 1.1 metres in height.

As the applicant is a statutory undertaker, the appearance of the warning signage to be affixed to the proposed handrail and signpost is not subject to assessment as part of the current application, as per the provisions of The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the application site is land in the ownership of South Ayrshire Council and the application has received 1 or more competent written objections. A total of 3 representations have been received objecting to proposal. 1 neutral representation has been received on behalf of Barr Community Council.

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:**

4 representations have been received, 3 of which object to the proposed development and 1 neutral representation has been received from Barr Community Council. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The issues raised by representees can be summarised as follows:

- Impact of proposals on visual amenity of locale.
- The requirement for the proposals to be installed at this location

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. 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.

(i) **Development Plan**

Section 25 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 following provisions of the development plan are considered relevant to the consideration of this application and can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx> :

LDP Policy: Sustainable Development
LDP Policy: Historic Environment
LDP Policy: Open Space

The provisions of the Adopted South Ayrshire Local Plan 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.

The development proposal has been assessed against the above policies and is considered to be in accordance with the development plan.

The statutory Local Development Plan (LDP) for the area currently comprises the South Ayrshire Local Development Plan (adopted in September 2014) and its associated Supplementary Guidance, as well as the Town Centre and Retail Local Development Plan, adopted in 2017.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications.

The provisions of PLDP2 remain largely unchanged from the Adopted South Ayrshire Local Plan in so far as the application site continues to be identified as a location suitable for the proposed development. The application has been considered in this context.

(ii) Other Policy Considerations (including Government Guidance)

Scottish Planning Policy;

Scottish Planning Policy (SPP) states that Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. A proposed development that would have a neutral effect on the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance.

Historic Environment Policy for Scotland;

Historic Environment Policy for Scotland offers guidance on the protection and management of the historic environment and indicates that the planning authority is required to have regard to the desirability of preserving or enhancing the character and appearance of a conservation area.

South Ayrshire Council Supplementary Guidance: Historic Environment:

Policy 1 of the above Supplementary Guidance (SG) refers to design quality, and states that development proposals will be considered in terms of compliance with the 'General Criteria for New Development', which applies to new development.

Policy 3 of the above SG refers specifically to development proposals within conservation areas, and states that all new development within, or affecting the setting of, a conservation area shall be required to preserve or enhance its character or appearance.

It is considered that the installation of an approximately 1.1-metre-high handrail, 1.1 metre signpost and associated warning signage will not compromise the character or visual amenity of Barr Conservation Area at this locale.

The proposed handrail is to be located on the northern bank of the river adjacent to an existing water pipe bridge, approximately 6 metres from the edge of the public footway and shall have a length of approximately 3 metres. The location of the handrail is partly screened by existing trees and is to be finished in a dark green colour so it will be inconspicuous and will safeguard the character and appearance of the conservation area. The proposed signpost is to be located on the southern bank of the river, adjacent to the existing water pipe bridge and will also be inconspicuous amongst the existing tree cover. Considering the above, the proposed development will have a neutral impact on the character and visual amenity of the Barr conservation area at this locale.

Additionally, it is not considered that the proposed development would result in a detrimental impact on the character or setting of the nearby C-listed Gregg bridge as the works are located approximately 20 metres from this existing structure.

(iii) Objector Concerns

The concerns of the objectors have been summarised and considered as follows:

- *Impact of proposals on visual amenity of locale*

The potential impact of the proposed development on the character and appearance of the conservation area has been fully considered in both sections 7(ii) and (iv) of this report. In reference specifically to the proposed signage, as the applicant is a statutory undertaker, the appearance of the warning signage to be affixed to the proposed handrail and signpost is not subject to assessment as part of the current application, as per the provisions of The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. The application is considered in this context.

- *The requirement for the proposals to be installed at this location*

The applicant outlined in their initial supporting statement that the works are required to be undertaken urgently to meet health and safety requirements. The water pipe, that the proposed works are associated with, crosses the burn above ground, is accessible to the public and currently has no access restrictions or advisory warning signage. The applicant also provided additional information regarding the undertaking of the site inspection and survey to determine what intervention was suitable, in this instance, to mitigate identified health and safety risks. They noted that an original solution – installation of anti-climb devices directly onto the pipe bridge – resulted in concerns being raised locally in relation to the visual impact of these devices. As such the proposals which are subject of this planning application were selected as a suitable alternative to mitigate the concerns raised.

(iv) Impact on the Locality

As noted in section 7 (ii) above, the application site is situated within Barr conservation area. As outlined, due to the nature, appearance, and siting of the development proposals, they are not considered to result in a detrimental impact on the character or appearance of the conservation area at this locale.

The application site is also situated within an area designated as open space. It is noted that The LDP Policy 'Open Space' supports protection of open space from development and does not support development which is not related to the use of open space on which it is sited. Proposals may be considered acceptable where the scale, use and design of a development is appropriate to the existing character of the open space and there is no individual or cumulative effect on the amenity or recreational value of that site. In this instance the development will not result in the loss of any open space as the development relates to the existing water pipe installed at the locale and the development is also required for the purposes of health and safety. The proposals are considered to be relatively minor in scale and sited where existing tree cover shall provide some screening from the wider locale. As such the proposed development is not considered to undermine the existing area of open space or have a detrimental impact on the visually amenity of the locale.

Additionally, it is noted that there are residential properties situated to the south of the application site on The Clachan. However, due to the modest nature of the development proposals, separation distances and screening by trees, it is not considered that there shall result in any adverse impact on the residential amenity of said dwellings.

In light of this assessment and that above in regard to the effects of the development on the character and appearance of the conservation area, it is considered that, subject to conditions, the development shall preserve the character and appearance of Barr conservation area.

8. Conclusion:

The development proposals are required in this case for health and safety reasons. While the water pipe has been in place for a long time, health and safety regulations and standards have progressed and it is in this regard that the current proposals have been submitted to the planning service. The handrailing and sign post with associated advisory warning signage are modest in scale and nature and will benefit from a degree of screening from the tree cover in the immediate area. The handrail will be painted green to match other railings in the Conservation Area. Having considered the merits of the case, it is considered that the proposals are acceptable and will not impact adversely on the character of the Conservation Area.

9. Recommendation:

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

- (1) 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.
- (2) That, in event that both the handrail and signpost hereby approved are no longer required in association with the water pipe that crosses the river, they shall be removed, and the site shall be restored to the satisfaction of the Planning Authority within one month of the removal of the equipment.

Reasons:

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (2) To ensure there is no unnecessary equipment in this area of open space and to ensure the reinstatement of the site to a satisfactory standard.

Advisory Notes:

N/A

List of Determined Plans:

Drawing - Reference No (or Description): 5022030000-WN-DRA-04170013
Drawing - Reference No (or Description): 5022030000-WN-DRA-04170014
Drawing - Reference No (or Description): 5022030000-WN-DRA-04170015
Drawing - Reference No (or Description): Warning Signage Example

Reason for Decision (where approved):

The siting and design of the development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Background Papers:

1. Planning application form and plans.
2. Adopted South Ayrshire Local Development Plan (available online)
3. South Ayrshire Local Development Plan 2 (available online)
4. Supplementary Guidance: Historic Environment (available online)
4. Representations (available online)
6. Scottish Planning Policy (available online)
7. Historic Environment Policy for Scotland (available online)

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Ms Emma McKie, Planner (Place Planning) - Telephone 01292 616 203

REGULATORY PANEL: 23 JUNE 2022

REPORT BY PLACE DIRECTORATE

22/00227/FUR

PROPOSED DWELLINGHOUSE C150 FROM A77T JUNCTION NORTH OF ST QUIVOX TO B743 JUNCTION AT SLATEHALL ST QUIVOX SOUTH AYRSHIRE

Location Plan



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Summary

This application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 for planning permission to allow for more time for a single dwellinghouse, approved by the Council's Local Review Body through planning permission 18/00865/APP. There has been no significant change in material considerations since the time permission approved in 2019 by way of application 18/00865/APP and it is therefore recommended that the application be approved subject to conditions.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00227/FUR
SITE ADDRESS:	PROPOSED DWELLINGHOUSE C150 FROM A77T JUNCTION NORTH OF ST QUIVOX TO B743 JUNCTION AT SLATEHALL ST QUIVOX SOUTH AYRSHIRE
DESCRIPTION:	FURTHER PLANNING PERMISSION FOR THE ERECTION OF A DWELLINGHOUSE (18/00865/APP)
RECOMMENDATION:	APPROVAL WITH CONDITIONS

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal:

A further planning permission is sought for the erection of a dwellinghouse which was previously approved by application 18/00865/APP.

The application site area is 1870sqm. The site is located on the east side of the B7035 public road which links the A77, through St Quivox, to the B743 road close to Auchincruive. There are two modern single storey cottages located approximately 16 metres to the north-west of the application site, known as 'East and West Cottage'. These are dry dash rendered with a shallow pitched tiled roof. There are also 4 traditional single storey semi-detached cottages approximately 11 metres to the south east known as 'Mount Hamilton Cottages'. These are white rendered with hipped slated roofs. The site comprises overgrown shrubbery and also an area of concrete hardstanding which currently serves as a parking for East and West Cottages. Tree planting also exists along the roadside of the B7305. Vehicular access to the site is obtained from the B7305. The application site is located within the greenbelt and also the St Quivox Conservation Area, as prescribed by the South Ayrshire Local Development Plan.

Planning History

Planning application 18/00865/APP for the erection of a dwellinghouse was refused under delegated powers by the Planning Authority's appointed officer in 2018. The applicant sought a review of the appointed officer decision whereby the Council's Local Review Body decided to overturn the decision of the appointed officer and grant planning permission subject to a number of conditions.

The aforementioned planning permission has not been implemented, and the current application seeks to renew the planning permission granted under the earlier application 18/00865/APP.

The current application is a further application which seeks to renew the earlier planning application granted under application 18/00865/APP for the erection of a dwellinghouse, thereby extending the timescale for implementing the development previously approved.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as more than five competent written objections have been received from separate households.

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:

7 representations have been received, 7 of which object to the proposed development. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The issues raised by Representees can be summarised as follows: -

In summary, the principal concerns of the representatives relate to;

- o The development is contrary to the Local Development Plan;
- o Previous planning application refused for the erection of a dwellinghouse on this site;
- o Road safety and access concerns;
- o Concerns relating to the landscape impact, layout, design and visual appearance of the development;
- o Impact on the conservation area;
- o Privacy concerns;
- o Amenity concerns – loss of daylight/ overshadowing;
- o Noise pollution;

- o Flooding and drainage concerns;
- o Impact on wildlife; and
- o Loss of view.

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. 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.

(i) Development Plan

Section 25 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 following provisions of the development plan are considered relevant to the consideration of this application:

The following policies are relevant in the assessment of the application and can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx>

- o Spatial Strategy;
- o Green Belt;
- o Rural Housing;
- o Historic Environment;

As part of their assessment of application 18/00865/APP, the Council's Local Review Body (LRB) considered that the proposal was in compliance with the provisions of the development plan. In granting planning permission under application 18/00865/FUL, the Council's Local Review Body established the principle of the development proposal at this location was acceptable. This is the Council's most up to date position with regards this site and has to be afforded significant weight in the assessment of this current application which is to renew planning permission 18/00865/APP.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications.

The policy provisions of the LDP2 continue to permit residential development in rural locations, in certain circumstances. There have been no significant changes in policy at the application site and its surroundings under LDP2.

(ii) Other Policy Considerations (including Government Guidance)

o Rural Housing Policy Guidance;

As part of the assessment of their assessment of application 18/00865/APP, the Council's Local Review Body (LRB) considered the proposal accorded with the Council's supplementary planning policy in relation to Rural Housing, due to the principle of the proposed dwellinghouse being acceptable. In particular, the Local Review Body decided that the terms of the Council's Supplementary Guidance on Rural Housing specifically in respect of 'additions to small settlements' were clear and considered that the application proposal complied with all of the relevant criteria. The Local Review Body therefore decided that the proposal is in accordance with South Ayrshire Local Development Plan policies; Spatial Strategy (Core Investment Area), Green Belt, Historic Environment, Rural Housing, the Council's Supplementary guidance on 'Rural Housing' and the Council's Supplementary Planning Guidance on 'Open Space and Designing New Residential Developments'.

The LRB view on the Rural Housing Policy Guidance with regards 18/00865/APP has to be afforded significant weight in the assessment of this current application which is to renew the planning permission 18/00865/APP.

o Open Space and Designing New Residential Developments;

As mentioned above, the Local Review Body (LRB), as part of their assessment of application 18/00865/APP, that the proposal was considered to accord with the Council's supplementary planning policy in relation to 'Open Space and Designing New Residential Developments'.

The LRB view on the supplementary planning policy on Open Space and Designing New Residential Developments with regards 18/00865/APP has to be afforded significant weight in the assessment of this current application which is to renew the planning permission 18/00865/APP.

(iii) Objector Concerns

The representations received in relation to the proposal are noted, and the following response is offered:

o The development is contrary to the Local Development Plan;

The principle of this same development proposal at this location was previously established through the grant of planning permission under application 18/00865/APP, by the Council's Local Review Body. The Local Review Body considered that the proposals were in accordance with the policies of the local development plan which requires to be afforded significant weight in the assessment of this application.

The design and proposals contained within the current application submission are the exact same as previously approved. As part of the assessment of this application, it is considered that the approval of application 18/00865/APP is materially significant to the assessment of the current application. There have been no significant changes in policy at the application site and its surroundings under LDP2 that would lead to a different decision. On this basis, the proposal is considered to accord with the provisions of the Development Plan.

o Previous planning application refused for the erection of a dwellinghouse on this site;

Noted. The planning history of the application site is set out elsewhere in this report.

o Road safety and access concerns;

The Ayrshire Roads Alliance (ARA) were consulted on planning application 18/00865/APP and offered no objection, subject to conditions, from a road safety perspective. The design and proposals contained within the current application submission are the exact same as previously approved, and the conditions recommended by the ARA can be attached to the current permission.

o Concerns relating to the landscape impact, layout, design and visual appearance of the development;

In their assessment of application 18/00865/APP, the Council's Local Review Body considered that the development proposal was acceptable in terms of landscape impact, layout, design and visual appearance of the development. The proposals contained within the current application submission are the exact same as previously approved.

- o Impact on the conservation area;

In their assessment of application 18/00865/APP, the Council's Local Review Body considered that the development proposal did not have a detrimental impact on the character or appearance of the conservation area.

- o Privacy concerns;

In their assessment of application 18/00865/APP, the Council's Local Review Body considered that the development proposal did not have a significant adverse impact on the privacy of neighbouring dwellings.

- o Amenity concerns – loss of daylight/ overshadowing;

In their assessment of application 18/00865/APP, the Council's Local Review Body considered that the development proposal did not have a significant adverse impact on loss of daylight or overshadowing of neighbouring dwellings.

- o Noise pollution;

It is considered that the proposal to erect a single dwellinghouse at this would not exacerbate either noise or light pollution to such a level which would adversely impact on the amenity of the neighbouring residential properties. In any case, the Council's Environmental Health Service has legislative powers to address statutory noise nuisance, should it occur.

- o Flooding and drainage concerns;

The application site is not within a flood risk area. It is considered that arrangements can be made for the management of surface water.

- o Impact on wildlife; and

The application site is not protected by way of a designated wildlife site.

- o Loss of view.

The loss of view is not a material planning consideration which can be considered in the assessment of a planning application.

(iv) Impact on the Locality

The principle of this same development proposal at this location was previously established through the grant of planning permission under application 18/00865/APP, by the Council's Local Review Body. The Local Review Body considered that the proposals were in accordance with the policies of the local development plan. The development proposal has previously been assessed as being acceptable by the Local Review Body in their decision notice dated 12th March 2019. The provisions of the development plan as contained in the Adopted SALP and emerging provisions of the LDP2 remain the broadly the same, in so far that additions to small settlements are acceptable, subject to criteria. The application has been considered in this context, and therefore, it is considered that the development proposal is acceptable.

In view of the planning history of the site, and having balanced the applicant's rights against the general interest, it is recommended that the application be approved, subject to the same planning conditions that were attached to the previous planning permission under application 18/00865/APP.

8. Conclusion:

The decision of the Local Review Body with regards planning permission 18/00865/APP is significantly material in the assessment of this application as it is the most recent and established Council position with regards the development of this site for a dwellinghouse. The proposals under the current application to renew 18/00865/APP are unchanged. Considering this, there are no policy objections to this proposal, and it is considered that this proposal will not have an adverse impact on the character or residential amenity of the surrounding area, nor will it have an adverse impact on the character, appearance or setting of the conservation area. Given the above and having balanced the applicant's rights against the general interest, it is recommended that the application be approved subject to conditions.

9. Recommendation:

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

- (1) 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.
- (2) That the first 10 metres of the access road from its junction with the public road shall be resurfaced in accordance with the specifications in the Council's Roads Development Guide prior to occupation. A detailed specification shall be submitted for the prior written approval of the Planning Authority prior to commencement.
- (3) That the discharge of water onto the public road carriageway shall be prevented by drainage or other means. Precise details and specifications of how this is to be achieved shall be submitted for the prior written approval of the Planning Authority before any work commences on site and implemented as approved.
- (4) That 3 no. off road parking spaces shall be provided within the existing site boundary in accordance with the Council's Roads Development Guide, prior to completion of the development.
- (5) That parking bays shall be a minimum 5.5 metres x 3.0 metres, internal dimensions of an integral garage shall be 7.0 metres x 3.0 metres to count toward required parking provision.
- (6) That a lockable and covered cycle stand accommodating a minimum of 1 no. cycle shall be provided within the site boundaries. Precise details of the siting and specifications of the required cycle stand shall be submitted for the formal prior written approval of the Planning Authority before any work commences on site and implemented as approved.
- (7) That prior to the commencement of development, details of the location, height and materials of all new boundary fences, gates or other means of enclosure shall be submitted to the Planning Authority for written approval and implemented as approved.
- (8) That prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and implemented as approved.
- (9) That before any works start on site a scheme of landscaping indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earth mounding, shall be submitted for the prior written approval of the Planning Authority. The scheme as approved shall be implemented within / first planting season following the completion or occupation of the development, whichever is the sooner. The open space/landscaped area shall be retained as open space and to this approved standard.
- (10) Surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems (SUDS) Manual published by CIRIA in March 2007. Full details of the methods to be employed, following discussions with SEPA, and including where appropriate calculations, along with details of how these measures will be maintained in perpetuity, shall be submitted for approval in writing by this Planning Authority prior to the commencement of any works on site. Thereafter, the surface water drainage arrangement shall be implemented as approved.

Reasons:

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (2) In the interest of road safety and to ensure an acceptable standard of construction.
- (3) In the interest of road safety and avoid the discharge of water on to the public road.
- (4) In the interest of road safety and to ensure adequate off-street parking provision.
- (5) In the interest of road safety and to ensure that there is adequate space for manoeuvring and turning.
- (6) To ensure adequate provision of lockable and covered cycle storage on site. To encourage sustainable means of travel.
- (7) In the interests of visual and residential amenity.
- (8) In the interests of visual amenity.
- (9) In the interests of visual amenity and to ensure a satisfactory standard of local environmental quality.
- (10) To ensure the site is drained in an acceptably sustainable manner and the drainage infrastructure is properly maintained.

Advisory Notes:

None.

List of Determined Plans:

Drawing - Reference No (or Description): 1803-P001

Drawing - Reference No (or Description): 1803-SL001

Drawing - Reference No (or Description): 1803-SL002

Drawing - Reference No (or Description): 1803-SL003

Drawing - Reference No (or Description): 1803-SL004

Reason for Decision (where approved):

The siting and design of the development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Background Papers:

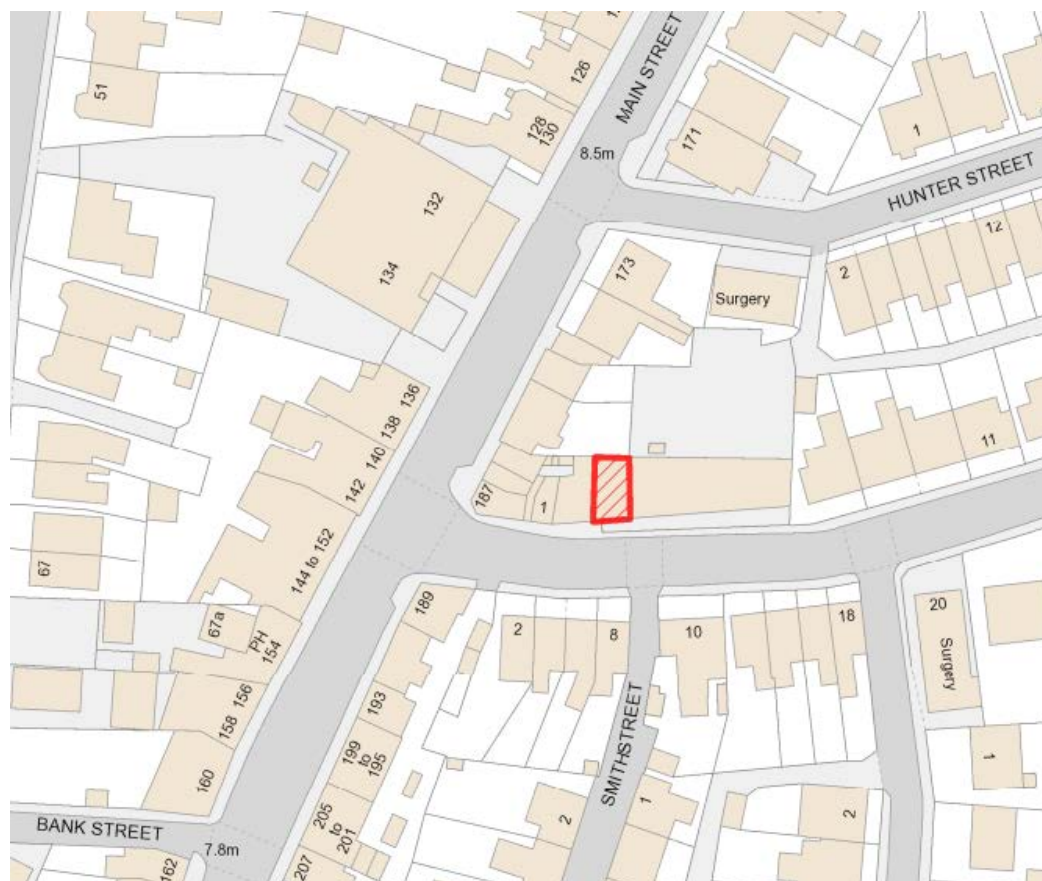
1. Application form, plans and submitted documentation
2. Representations
3. Adopted South Ayrshire Local Development Plan
4. Modified Proposed Local Development Plan 2
5. Town Centre and Retail Local Development Plan
6. Rural Housing Policy Guidance
7. Supplementary planning policy in relation to 'Open Space and Designing New Residential Developments'.
8. Local Review Body decision notice dated 12th March 2019

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Mr David Clark, Supervisory Planner (Place Planning) - Telephone 01292 616 118

REGULATORY PANEL:**REPORT BY PLACE DIRECTORATE****22/00192/APP****3C ST QUIVOX ROAD PRESTWICK SOUTH AYRSHIRE KA9 1LJ****Location Plan****Summary**

Planning permission is sought for the part change of use of Class 3 food and drink establishment (dessert parlour) to include hot food take away sales from the premises and the erection of an associated flue. The Local Development Plan Town Centres Policy seeks to promote and enhance the vitality and viability of town centres, through encouraging a range of uses. The unit is located within the retail periphery of Prestwick town centre where takeaway establishments are ordinarily directed. The part change of use of the established Class 3 food and drink establishment to a hot food takeaway is therefore considered to be a use both compatible with and expected within the periphery of town centre locations.

The application has been assessed against the various material planning considerations which include the provisions of the Adopted Development Plan, Local Development Plan 2, Scottish Planning Policy, consultations, representations received (8 in total, including Prestwick North Community Council), and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern which cannot be addressed by the appropriate conditions. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections and following the above assessment, it is considered that the neighbouring residential properties presently, and will continue to experience a level of amenity which is commensurate with their location within the town centre, and that the proposal will not significantly alter this. Accordingly, the application is recommended for approval.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL:

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00192/APP
SITE ADDRESS:	3C ST QUIVOX ROAD PRESTWICK SOUTH AYRSHIRE KA9 1LJ
DESCRIPTION:	PART CHANGE OF USE OF CLASS 3 UNIT TO FORM HOT FOOD TAKEAWAY AND ERECTION OF FLUE
RECOMMENDATION:	APPROVAL WITH CONDITION(S)

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications, subject to certain restrictions arising directly from the public health measures put in place to deal with the COVID-19 (Coronavirus) pandemic.

1. Proposal:

The application site is located at unit 3C St Quivox Road, Prestwick, and comprises of an existing Class 3 food and drink premises. Planning permission was granted for the Class 3 use of the premises under application Ref. 18/00786/APP and is part of a larger unit. A parking lay-by for a maximum of seven vehicles, and a realigned footpath along the frontage of the site at St Quivox Road was also implemented under a previous application Ref. 17/00663/APP. The site, and immediate locality is situated within Prestwick town centre, and as such, is bound by a variety of different land uses. Commercial premises are located adjacent to the site, with Prestwick Main Street being located approximately 20 metres to the west of the site. Residential properties are located opposite the site to the south.

Planning permission is sought for the part change of use from the Class 3 food and drink use as a dessert parlour, to a hot food takeaway and the erection of an associated flue. The submission has been accompanied with a Business Operation statement which outlines that the hot food to be sold from the premises shall be limited to hot filled rolls, sandwiches, chips and hot drinks. The equipment to be used in the preparation of the above hot food shall consist of a tabletop grill, chip fryer, kettle, two ring hob and heated soup pot. The premises shall operate between the hours of 8am and 10pm.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as more than five competent written objections have been received from separate households. Additionally, an objection has been submitted by the Prestwick North Community Council. As such, and given the recommendation that planning permission be granted, the application requires to be considered by the Regulatory Panel.

2. Consultations:

Ayrshire Roads Alliance - Offer no objections.

Environmental Health - Offer no objections, subject to the attachment of conditions and advisory notes to any permission granted

Waste Management – Offer no objections, subject to an advisory note regarding the storage of commercial waste bins.

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:**

8 representations have been received which object to the proposed development, including Prestwick North Community Council. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The issues raised by objectors can be summarised as follows:

- Traffic and transport issues and road safety concerns
- noise and air pollution and antisocial behaviour at locale
- Adverse impact on residential amenity
- Servicing and waste collection arrangements
- Planning history of the site and nature of application
- Nature of and need for the development

Prestwick North Community Council objects to the development proposal for the following principal reasons; the proposal shall have a detrimental impact on residential amenity from cooking smells, increased footfall, increased parking, extended opening hours, increased litter and waste disposal issues.

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. 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.

(i) **Development Plan**

Section 25 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 following provisions of the development plan are considered relevant to the consideration of this application:

- Spatial Strategy - Core Investment Towns
- Sustainable Development
- Town centres (retail periphery)
- Land Use and Transport

The provisions of the Adopted South Ayrshire Local Plan 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.

The spatial strategy directs development proposals to the core investment towns (i.e Ayr, Prestwick, Troon, Maybole and Girvan), and in particular proposals for commercial, industrial or community facilities. Additionally, the spatial strategy seeks to promote and enhance the vitality and viability of town centres, through encouraging a range of uses, and also an evening and night time economy. More specifically, the LDP Town Centres policy defines the category of land uses which are considered to be acceptable in core and peripheral town centre locations. In peripheral town centre locations this includes hot food takeaway establishments. The provision of such establishments is to be expected in the periphery of town centres, as evidenced by Prestwick, and other town centres with the wider local authority area. The Business Operation Statement submitted by the applicant confirms the nature of the application to continue to operate as a dessert parlour (Class 3 food and drink use) for consumption on the premises, with only a part change of use to sell a limited range of hot foods, for consumption off the premises proposed. As such, the proposal is considered to be appropriately sited within the defined periphery of Prestwick town centre. The application has been considered in this context.

Given its town centre location, the site is considered to be accessible, and the availability of other means of transport other than the private car and including pedestrian links are noted. In considering both the context of the site location, and the improvement works to facilitate off-street parking and pedestrian access in the immediate locality of the site (under application 17/00663/APP), the Ayrshire Road Alliance (ARA) has confirmed it has no objection to the proposed part change of use of the premises. For these reasons, the proposal is not considered to raise any issues relating to traffic, transport and accessibility.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications.

LDP2 will supersede the adopted South Ayrshire Local Development Plan (2014) and Town Centre and Retail Local Development Plan (2017). The provisions of LDP2 remain largely unchanged from both the Adopted South Ayrshire Local Development Plan (2014) and Town Centre and Retail Local Development Plan (2017). The application has been considered in this context.

It is considered that as the provisions of LDP2 remain largely unchanged, the proposed development is also considered to be in accordance with provisions of LDP2.

(ii) Other Policy Considerations (including Government Guidance)

- *Scottish Planning Policy (2014)*

A single consolidated version of Scottish Planning Policy has been prepared and adopted by the Scottish Government in June 2014. This forms the most up-to-date statement in terms of the Scottish Ministers position in relation to land use matters, and is therefore relevant in the consideration of the current application. The SPP is broadly supportive of development which promotes economic activity and development within town centres. The SPP also emphasises the need to make efficient use of existing buildings, land and infrastructure and to redevelop rural and urban brownfield sites before greenfield sites. With specific regard to town centres, the SPP states that "Planning for town centres should be flexible and proactive, enabling a wide range of uses which bring people into town centres. The planning system should:

- apply a town centre first policy when planning for uses which attract significant numbers of people, including retail and commercial leisure, offices, community and cultural facilities;
- encourage a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening;

The provisions of Scottish Planning Policy are noted, and the application is considered in this context.

(iii) Planning History of the Site

The most recent planning application at 3 St Quivox Road is noted as follows:

Planning permission was granted under application Ref. 17/00663/APP for the change of use, alterations and extension to form six (Class 1) retail units and one (Class 2) unit for the provision of professional services.

Planning permission was subsequently granted retrospectively under application Ref. 18/00786/APP for the change of use of the current application site (which occupies one of these units) from a Class 1 retail unit to form a Class 3 food and drink establishment (dessert parlour).

(iv) Objector Concerns

- Traffic and transport issues and road safety concerns

These aspects are considered elsewhere in this report; however, the development proposals are obliged to meet the transport needs arising from the proposal. The availability of short-term parking at this locale is consistent with town centre locations. St Quivox Road and the surrounding streets form part of the local road network which is managed and maintained by the ARA and where existing and proposed traffic regulation orders, in addition to road lining ensure that the network operates in an acceptable manner and remains accessible to emergency vehicles. In the context of the town centre location of the site, the ARA has confirmed it has no objection to the proposed part change of use of the premises to form a Class 3 and hot food takeaway facility at the application site. For these reasons, the proposal is not considered to raise any issues relating to traffic, transport, road safety and accessibility.

- Adverse impact on residential amenity, including litter, noise, air pollution, health and safety, hours of operation, servicing and waste collection arrangements

The impact of such proposals on the residential amenity of nearby properties requires to be carefully considered. Given the current use of the site as a class 3 premises and the commercial use of adjoining buildings, it is considered that neighbouring residential properties presently, and will continue to experience, a level of amenity which is commensurate with their location within Prestwick town centre, and that the proposal will not significantly alter this.

The proposed hours of operation of the premises are to range between 8am and 10pm. Given the location of the application site within the retail periphery of Prestwick town centre, it is not considered that the proposed hours of operation are inconsistent with a location of this nature. A condition shall be attached to the permission limiting to the hours of operation of the premises to between 8am and 10pm, inclusive.

Additionally, should any statutory noise nuisance arise, or any other matter related to air quality, lighting or health and safety issues, it is for the Council's Environmental Health Service to address such matters under their statutory powers. The Council's Environmental Health Service were therefore consulted regarding the development proposals under consideration. In their response, they offered no objections to the development subject to the attachment of appropriate conditions and advisory notes (captured below) to any planning permission granted.

With regard to the potential for increased litter, it is noted that the waste collection arrangements are located to the rear of the premises. Additionally, the Council's Waste Management Service have recommended an advisory note be attached outlining that all commercial waste must be stored to the rear of the premises. For these reasons, any increased litter arising from the proposal is not expected to be so significant so as to warrant a recommendation to refuse the development proposal.

- Planning history of the site and need for the development

The previous application at the site (Ref. 18/00786/APP) was for the change of use of the unit from Class 1 retail to Class 3 food and drink (dessert parlour). The current application is for the proposed part change of use of the Class 3 unit to form a hot food takeaway and the erection of an associated flue. The applicant/agent is not required to demonstrate a need for the proposal, and therefore the application is considered on its own merits.

- Other concerns, including, anti-social behaviour and adverse impact on health and well-being

The application property will continue to operate as a dessert parlour with the proposed hot food take away element being an additional and supplementary offering. Class 3 and hot food takeaways uses are commonplace in town centres, and as such, its use is considered to be compatible with the town centre location. The residents' perceived fear of crime and potential for anti-social behaviour are primarily matters for the police. Notwithstanding, given the location of the site within Prestwick town centre it is considered that nearby residential properties presently, and will continue to experience, a level of amenity which is commensurate with their location within a town centre, and that the proposal will not significantly alter this. With regard to any potential adverse impact(s) on health and well-being it is not considered that there is an over proliferation of hot food take away establishments in the area but rather a mix of offerings with regards eating out.

(iv) Impact on the Locality

As noted above, the application site is located within the periphery of Prestwick town centre area in the Adopted South Ayrshire Local Development Plan. Town centres are characterised by a range of different land uses which co-exist, often adjacent to, or within close proximity of each other. Town centres are also widely recognised as being the primary focus for retail, commercial uses, services and leisure opportunities, and in terms of being accessible locations with opportunities for use by a range of different modes of transport. Class 3 food and drink uses and sui generis hot food takeaway establishments are commonplace in town centres, and as such, there is no issue with the proposed use from a planning perspective, it is compatible with the town centre location of the site.

The submission has been accompanied with a Business Operation statement which outlines that the hot food to be sold from the premises shall be limited to hot filled rolls, sandwiches, chips and hot drinks. The equipment to be used in the preparation of the above hot food shall consist of a tabletop grill, chip fryer, kettle, two ring hob and heated soup pot. An appropriate condition can be attached to any permission granted to ensure that the equipment used in the preparation of hot food is restricted to those listed within the supporting statement.

The proposed flue is to be erected to the rear elevation of the unit which bounds a parking and storage area. The proposed flue is located to the rear elevation of the premises and outwith public view. It is considered that the proposed flue is acceptable in size, scale, siting and design in that it will not be visible from the public vantage points. Given its proposed siting, the flue is considered to be acceptable and not to have a significant detrimental impact on the visual or residential amenity of the surrounding locality.

The Council's Environmental Health Service has no objection to the proposal subject to the advisory notes as captured below.

While the impact of the development proposals on the residential amenity of nearby properties requires to be carefully considered, given the current use of the site as a class 3 food and drink establishment, and that only a part change of use to form a hot food takeaway is proposed, it is considered that neighbouring residential properties presently, and will continue to experience a level of amenity which is commensurate with their location within the town centre, and that the proposal will not significantly alter this.

8. Conclusion:

Overall, subject to the aforementioned conditions, the proposed development complies with the development plan, and is considered to have an acceptable relationship to surrounding land and buildings, and an acceptable impact on the locality. The application has been assessed against the various material planning considerations which include the provisions of the development plan, Scottish Planning Policy, consultations, representations received, the planning history of the site and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses recommend appropriate conditions be attached to any permission. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections and following the above assessment, it is considered that the proposal will not have an adverse impact on the amenity of the locality. Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the application be approved.

9. Recommendation:

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

- (1) 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.
- (2) Ventilation within the kitchen areas requires to be adequate and suitable for the food handling/cooking carried out therein. In order to prevent the occurrence of a smell nuisance, the ventilation system in this area must be provided with suitable means of filtration e.g., grease and charcoal filters and extended ducting terminating at least one metre above eaves level of any building within 15m of the building housing the commercial kitchen, or alternatively the operation of the premises is limited to enclosed unit cooking. Details of the ventilation shall be submitted for the prior written approval of the planning authority through consultation with the Council's Environmental Health Service and shall be implemented as approved before any cooking or preparation of hot food takes place on the premises.
- (3) That, prior to the part change of use of the premises to hot food take away, an acoustic consultant's report or manufacturer's specifications are required to demonstrate, for the approval in writing of the planning authority, that the noise from the ventilation extract system will comply with NR25 (noise rating criteria) within a habitable room of the nearest noise sensitive dwelling to the application site with windows open sufficiently for ventilation. The method(s) for measuring and calculating this noise level can be undertaken and demonstrated without gaining physical access to a habitable room of the nearest noise sensitive dwelling to the application site. Any changes to the ventilation extract system, that may be approved under the terms of this condition, shall require the prior written consent of the planning authority through consultation with the Council's Environmental Health Service.
- (4) The equipment to be used in the preparation of food to be sold from the premises shall be restricted to those methods of cooking outlined within the submitted Business Operation Statement. No other form of cooking and/or heating of food stuffs shall be utilised within the premises without the prior written approval of the Planning Authority.
- (5) The hours of operation of the development shall be restricted to between 8 am and 10 pm.

Reasons:

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (2) In order to prevent the likelihood of a smell nuisance.
- (3) In order to prevent the likelihood of a noise nuisance.
- (4) To clarify the terms of the permission and in the interests of amenity.
- (5) In the interests of residential amenity.

Advisory Notes:

- (1) The permitted noise levels and working times as specified in "South Ayrshire Council's Environmental Health, levels and conditions to be applied to works on construction sites" should be adhered to.
- (2) The premise requires to fully comply with the Health and Safety at Work etc Act 1974 and the Food Safety Act 1990 and any Regulations and requirements therein and thereto.
- (3) It is recommended that the air source heat pump unit be installed using anti-vibration mounts where it attaches to a building, the ground or other hard surface, in order to prevent additional noise caused by vibration.
- (4) Any commercial bins must be kept in the car park area to the rear of the premises which is accessed from Hunter Street. No commercial bins can be stored on St Quivox Road.

List of Determined Plans:

Drawing - Reference No (or Description): **Approved** Location Plan
 Drawing - Reference No (or Description): **Approved** 1
 Other - Reference No (or Description): **Approved** Business Operation Statement

Reason for Decision (where approved):

The proposed part change of use, hereby approved, is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Background Papers:

1. Planning application form, plans and supporting information

2. Adopted South Ayrshire Local Development Plan
3. Local Development Plan 2
4. Representations (available online)
5. Scottish Planning Policy

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Ms Emma McKie, Planner - Place Planning - Telephone 01292 616 203

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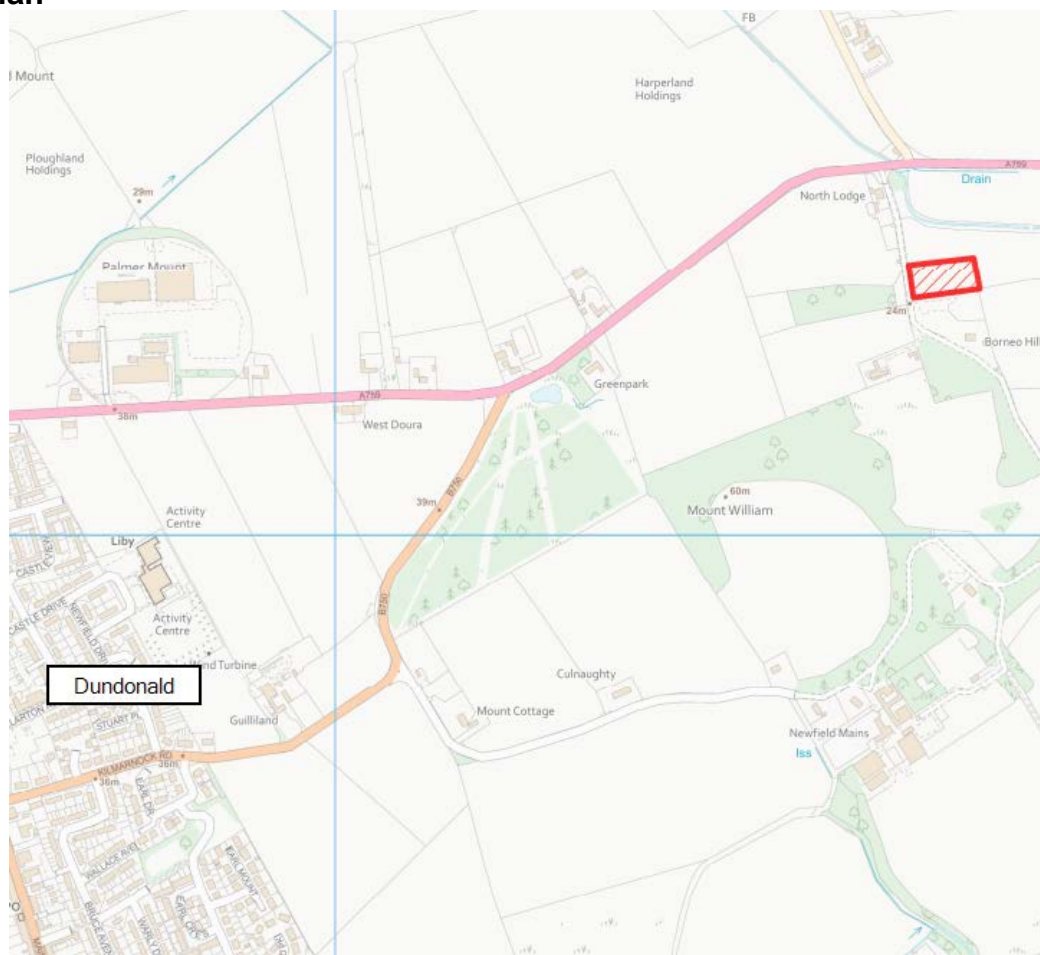
REGULATORY PANEL: 23 JUNE 2022

REPORT BY PLACE DIRECTORATE

22/00132/PPP

LAND ADJACENT TO BORNEO HILL A759 FROM COUNCIL BOUNDARY AT OLD ROME BRIDGE TO BYPASS ROAD DUNDONALD DUNDONALD SOUTH AYRSHIRE KA2 9BQ

Location Plan



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Summary

Planning permission in principle is sought for the erection of a dwellinghouse and 2 x agricultural sheds on land at Harperland Burn, North of Borneo Hill, Dundonald. Given the nature of the application, i.e., planning permission in principle, details for the siting and design of the residential development would require to be established by the submission of further application(s) for matters specified in conditions, if planning permission in principle were granted.

It is materially relevant that the application proposal is presented as a new, standalone agricultural enterprise based at – and for the sole purposes of operations upon – the c.14ha land unit at Harperland Burn, only. The submission at hand does not clarify any relevant site history whereby there is no prior steading already contained within the extent of the land unit as presently constituted. The submission suggests the current site has been managed on a non-resident, part-time and seasonal basis for summertime grazing of store cattle, in conjunction with other parcels of land and/or other holdings e.g., for 'outwintering'. Whereas the new enterprise proposes a substantively self-contained operation within Harperland Burn – based upon a resident pedigree breeding cattle herd (calving on a year-round pattern), complemented by a ewe flock which will provide year-round follow-on grazing and shall be lambed on-site (but potentially grazed off-site temporarily if a given growing season so dictates). On the latter basis, permission is sought in principle for a permanent agricultural worker's dwellinghouse and 2x agricultural sheds – of which one for livestock (wintering cattle and lambing ewes), and one for agricultural storage of feed, forage and equipment.

The application has been assessed against the various material planning considerations which include the provisions of the development plan, the emerging development plan, the Council's Rural Housing Supplementary Planning guidance, Scottish Planning Policy, consultations, representations received, and the impact of the proposed development on the locality. The assessment concludes that the proposed development is contrary to the policy provisions of the local development plan and the emerging local development plan. The consultation responses do not raise any issues of over-riding concern and the representations have been fully considered. Overall, there are policy objections to the development proposals and the application is recommended for refusal.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00132/PPP
SITE ADDRESS:	LAND ADJACENT TO BORNEO HILL A759 FROM COUNCIL BOUNDARY AT OLD ROME BRIDGE TO BYPASS ROAD DUNDONALD DUNDONALD SOUTH AYRSHIRE KA2 9BQ
DESCRIPTION:	PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF DWELLINGHOUSE AND TWO AGRICULTURAL BUILDINGS
RECOMMENDATION:	REFUSAL

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal:

The application site comprises agricultural land located in a rural area at Harperland Burn, to the north-west of Dundonald and approximately 130 metres to the south of the A759. The application is bound to the south by an existing landscaping business located at Borneo Hill, to the west by an unclassified public road and on all other boundaries by agricultural land. The application site equates to an area of approximately 4300 sq. metres with vehicular access taken via an unclassified road which connects directly to the A759. It is noted from the application submission that the land within the ownership of the applicant, at Harperland Burn, equates to approximately 14ha.

Planning permission in principle is sought for the erection of a dwellinghouse and 2 x agricultural sheds on land at Harperland Burn, North of Borneo Hill, Dundonald. Given the nature of the application, ie. planning permission in principle, details for the siting and design of the residential development would require to be established by the submission of further application(s) for matters specified in conditions, if planning permission in principle were granted.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as more than five competent written objections have been received from separate households.

2. Consultations:

Environmental Health - offer no objection subject to conditions.

Scottish Environment Protection Agency - offer no objection to the proposals on flood risk grounds.

Ayrshire Roads Alliance - offer no objection subject to conditions.

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.

Supporting Statement - The application submission is accompanied by a detailed Supporting Statement which explains the following: -

The applicants existing farming enterprise extends to some 35 acres (14.16ha) and is suitable for year-round grassland grazing. The applicant also owns a further 60 acres (24.28ha), around seven miles away near Galston. The application submission intimates that a cattle system, producing high-quality, grass-fed beef is the ideal business model to maximise the potential return from the land currently available. The proposal is for the current operations to transition away from store cattle which have been giving a low return for the level of capital employed and the continual fluctuations in input prices. The land within the applicant's ownership is therefore to remain all grassland and instead of storing cattle, the business proposed will have their own herd of pedigree breeding cows along with their progeny that will be sold at 20-22 months of age. Cattle will firstly be sold for breeding directly through pedigree societies and auctions. Those cattle that do not meet the necessary grade will be sold through local markets for meat or into the store market for finishing.

In addition to the cattle enterprise, the submission states that there will be a flock of around 150 ewes that will be kept all-year-round to follow the grazing of the cattle. Depending on the growing season, the sheep may be moved off the holding to other pastures or hill ground to ease pressure on the main cattle farming unit.

The supporting statement indicates, there is currently no accommodation or farm buildings on the land within the applicant's ownership which is starting to present problems for the business whilst it transitions onto this extensive grassland-based system. Despite having gates at the entrances to properties there has been an escalation of unauthorised vehicles entering farms in the nearby area. For animal welfare, animal husbandry, biosecurity, and general security reasons there is a requirement to have somebody on-site at all times.

The main breeding cattle will be on an all-year-round calving pattern to allow for a continuity of supply of finished animals throughout the year. The submission intimates that this is essential for a small business as it allows for a cashflow income throughout the year as animals reach maturity and ready for market. This is one reasons given for requiring accommodation on site so that somebody is on-hand at all times to assist or supervise calvings as they happen and the subsequent care of young animals.

The submission also indicates that the sheep enterprise will require high labour input in the lead up, during and after lambing to ensure the welfare of the ewes and lambs is maintained during this vulnerable period. Regular night-time checks are needed throughout this time to ensure problems are kept to a minimum and identified early.

Labour Requirements Report - An accompanying Labour Requirements Report indicates that the requirement for the farm enterprise is 1.72 labour units. The Labour Requirements Report also includes a business plan of the projected financial business performance.

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:**

19 representations have been received, 19 of which object to the proposed development. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The concerns raised in the objections can be summarised as follows: -

- Proposal is contrary to the Local Development Plan, emerging Local Development Plan and related supplementary guidance in relation to Rural Housing;
- Lack of supporting business case and financial information to support the proposal;
- Adverse impact on visual amenity, including the need for appropriate boundary treatment;
- Traffic and transport issues - increased traffic to and from site;
- Infrastructure issues - proposed drainage arrangements, and existing flooding would be exacerbated;
- Miscellaneous concerns – proposed development should be located in an alternative location.

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. 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.

(i) Development Plan

Section 25 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 following provisions of the local development plan are considered relevant to the consideration of this application and the policies can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/planlpdocuments.aspx>

- Spatial Strategy;
- Sustainable Development;
- Rural Housing;

The Spatial Strategy of the LDP sets out the settlement strategy for South Ayrshire and can be viewed as the foundation framework which provides the vision for how the Council wishes to see the towns and countryside areas develop over the duration of the plan.

The Spatial Strategy of the LDP states that; we will not support development outwith the boundaries of settlements (towns and villages), except where we believe it can be justified because it will benefit the economy and there is a need for it in that particular area and in line with the spatial strategy. Notwithstanding the provisions of the Spatial Strategy and the LDP Rural Housing Policy allow for housing to be built within rural areas, in accordance with their provisions, and the related provisions of the Council's supplementary planning guidance entitled Rural Housing. The Sustainable Development policy of the LDP seeks to consider the details of development proposals. Given the nature of this application, i.e., planning permission in principle, it is not possible to further consider matters of detail.

Of particular relevance in the consideration of the proposal are the terms of the LDP Rural Housing Policy. Criterion e. of this policy requires that where a home is essential to a rural business, the developer, must satisfy (the Council) through the submission of a sound business plan, that the business is economically viable and could not be run without residential accommodation.

For the reasons noted elsewhere within this report, there are policy concerns in relation to the development proposal, in so far as it is not considered that the proposal is in accordance with the provisions of the LDP and in particular the Policy in relation to Rural Housing. Further consideration of the proposal against the provisions of the Council's Rural Housing SPG are considered further below.

The statutory Local Development Plan (LDP) for the area currently comprises the South Ayrshire Local Development Plan (adopted in September 2014) and its associated Supplementary Guidance, as well as the Town Centre and Retail Local Development Plan, adopted in 2017.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications. Within the context of the current application assessment, the provisions of the Proposed Replacement South Ayrshire Local Development Plan (PLDP2) remain largely unchanged.

(ii) Other Policy Considerations (including Government Guidance)

Scottish Planning Policy:

The above SPP forms the statement of the Scottish Government's policy on nationally important land use planning matters and is considered to be relevant in the consideration of this application. In general, the SPP highlights the role of planning authorities in delivering sustainable economic growth in rural areas. SPP states that the aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality. The SPP expects development plans to respond to specific circumstances, and with regards to rural developments, the SPP advises support should be given to new housing which is linked to rural businesses. The policy emphasis of the SPP is noted, however, it is also important to note that the SPP maintains a plan-led approach to assessing development proposals with a primacy on Development Plans to provide a framework for assessing planning applications. This application is determined on this basis. For the reasons noted within this report, there are policy concerns in relation to the proposal.

South Ayrshire Council Supplementary Planning Guidance - Adopted Rural Housing Policy:

The Rural Housing supplementary guidance sets out the policy requirements which new houses serving rural based businesses are required to fulfil, and states that "The Council may give favourable consideration to the provision of on-site residential accommodation for a worker employed in an existing rural business, providing that;

- a) *It is demonstrated to the satisfaction of the Council that the business cannot operate without continuous on-site attendance and that there are no alternative means of operating the business; and*
- b) *There is no other existing accommodation that could be used to serve the business; and*
- c) *No existing dwelling serving or connected to the business or holding has been sold or in some other way separated or alienated from the holding in the previous five years; and*
- d) *Any proposed buildings or structures form or complement a coherent group of buildings and are not visually intrusive.*

Note: the requirement for on-site accommodation may be either as a result of the continuous operation of the existing business, or due to proposed expansion or diversification of that business.

The Council may give favourable consideration to the provision of temporary on-site residential accommodation for a worker employed in a proposed new rural business for a period of two years, providing that it is in full compliance with criteria a-d, inclusive, above, and that a business plan is submitted for the proposed business, which demonstrates the economic viability of the business and associated buildings/property.

In all cases, proposals for new residential accommodation in rural areas, including those demonstrated as being required to operate a rural business, must accord with the Council's design guidance, contained in this supplementary guidance.

Business plans require to demonstrate that by the third year of operation, the business will employ at least one essential worker per dwelling on a full-time basis at a wage of at least 50% of the South Ayrshire average and that the remaining income from the business would support the total equivalent borrowing cost of creating the business, together with its land, property and residential accommodation assets.

In considering the proposed development against the above policy of the SPG, the following is noted;

It is materially relevant that the original application submission is presented as a new, standalone agricultural enterprise based at – and for the sole purposes of operations upon – the c.14ha land unit at Harperland Burn, only. The submission at hand does not clarify any relevant site history whereby there is no prior steading already contained within the extent of the land unit as presently constituted. The submission suggests the current site has previously been managed on a non-resident, part-time and seasonal basis for summertime grazing of store cattle, in conjunction with other parcels of land and/or other holdings e.g., for 'outwintering'.

Conversely, the new enterprise proposes a substantively self-contained operation within the application site – based upon a resident pedigree breeding cattle herd (calving on a year-round pattern), complemented by a ewe flock which will provide year-round follow-on grazing and shall be lambed on-site (but potentially grazed off-site temporarily if a given growing season so dictates). On the latter basis, permission is sought in principle for a permanent agricultural worker's dwellinghouse and 2 x agricultural sheds – of which one for livestock (wintering cattle and lambing ewes), and one for agricultural storage of feed, forage, and equipment.

Hypothetically (and pending full and further due evidence) there may be eventual scope for policy support on a 'labour requirement' justification for an on-site residential worker, in satisfaction of criteria (a) and (b) as cited above. However, from a policy perspective there are concerns that the application proposal, in this form and at this stage, is premature both in terms of: (1) proposal type (i.e., permanent dwelling), and (2) detail (i.e., business plan).

The prematurity of the proposal on these bases (as explained below) stems from the statutory Supplementary Guidance – Rural Housing which provides the development plan's detailed prescriptions on rural business-related houses.

The structure of the above policy clearly draws a key material distinction between existing and new rural businesses, in giving consideration to the appropriate nature of any on-site residential accommodation for a worker employed in either such business. In the instance of a new rural business, scope for favourable consideration is explicitly caveated for temporary on-site residential accommodation only – for a period of two years, and in addition to fully satisfying all criteria (a) to (d). Logically, the successful establishment of the proposed business being borne out in that period of time is the precursor to a subsequent application for a permanent dwellinghouse in due course.

On the criteria (a) to (d), the submitted proposal's supporting documentation gives reasonable detail and explanation to satisfy, in principle, criteria (a) and (b). However, the satisfactory status of the site with regards to criteria (c) remains to be positively and demonstrably asserted within the submission. Whilst criterion (d) stands to be controlled as appropriate by relevant conditions in the event that a future PPP may be approved, at this stage in general terms it is acknowledged and welcomed that the red-line application site generally presents as the lowest lying and least visually obtrusive portion of the wider land unit.

Ultimately, against the terms of the policy, the proposal at hand is considered premature in proposing a permanent dwelling to support the inception of a new rural business. Whilst the application has offered no particular / exceptional justification as to why the proposal involves a permanent dwelling rather than temporary on-site accommodation, it is materially important to note that the policy does not proceed to describe any circumstances / other material considerations by which it envisages such a deviation could be found appropriate in planning terms.

Consequently, in its submitted form, the proposal is directly contrary to the development plan on this count.

The proposal as submitted supplies a business plan which lacks the requisite detail prescribed by policy, as quoted

in the final paragraph of the Rural Housing supplementary guidance. It does not demonstrate the economic viability of the business inclusive of the context of its associated buildings/property, because it has not itemised the capital costs of those buildings and nor therefore has it accounted for how the business shall, in its third operating year, bear a residual income sufficient to demonstrably service the total equivalent borrowing costs of creating the business – ‘together with its land, property and residential accommodation assets’. Nor has it itemised the simultaneous drawdown of a nominal proprietor’s wage at a rate in satisfaction of the respective element of the policy.

This burden of economic viability bears an important policy purpose in ensuring that the business, inclusive of the residential component proposed as essential to serve its operation, is fundamentally viable as an integral going concern irrespective of the personal financial (capital) capacity of a particular applicant.

Again, with further reference to business plan, the proposal as submitted is considered premature. The insufficient detail in the submitted business plan requires the proposal to be found as contrary to the development plan. Further essential detail is necessary in the form of a revised business plan to satisfy policy, as set out above.

The applicant’s agent was offered an opportunity to withdraw the aforementioned application to give fuller consideration to submitting a new proposal, with economic viability fully evidenced in accordance with the development plan. However, the applicant’s agent has requested that the application proceed to determination and has offered a further explanation which now portrays the proposal as ‘a continuation and expansion of the existing business’. The planning application assessment requires to be considered in accordance with the information which formed the basis of the original planning application submission i.e., a new business venture proposed at Harperland Burn.

The Council’s Supplementary Guidance on Rural Housing makes clear that whether a proposal concerns a new or existing business is in fact a key material distinction for planning purposes, where that proposal engenders on-site accommodation posited as essential for said business.

Accordingly, if the proposal were accepted as being an existing business, it remains the case that the proposal would be contrary to the local development plan. However, the agent has submitted additional contributions which would allow his client to consider a range of future options to progress aspirations for the site.

If the proposal was in fact considered to relate to an existing business, then (inter alia) criterion (a) of the supplementary guidance would require to be fully met in relation to that contrasting context and that this would require the supporting documentation (labour justification report, planning statement, etc) to be rewritten, expanded, and substantiated via supplementary evidential documentation wherever necessary to comprehensively account for:

- Formalising the further and broader narrative regarding the nature and history of the existing business (including expressly addressing the outstanding question of any past relationship between the blue-line ownership site and existing dwellings – particularly the property at Borneo Hill (aka ‘Burgess Hill’) and whether the latter property was in any way connected with or formed part of any portion of the land unit within the previous five years);
- Offering a full explanation of the role and status of the Harperland Burn land unit as a constituent part of the applicant’s existing business, particularly with regards inter alia to that business’ primary holding comprising a distinct holding in the Galston vicinity, and the nature of (and inter-unit connectivities with) the respective primary operations thereon;
- Consequently, offering likewise a full explanation of how the marked expansion, diversification and self-sufficiency of the proposed operations within Harperland Burn can continue to present as an operational constituent of the existing business, particularly in the context of that business being based remotely from Galston;
- Explaining how the existing business’ primary holding in the vicinity of Galston reconciles with the proprietor’s residential requirement being vested in the discrete and distant Harperland Burn constituent, and how this operational arrangement reflects the continuation of an existing business rather than the establishment of a standalone agricultural concern;
- Charting a chronological evolution of the existing business which establishes the nature, pace and extent of the transitional period and the operational iterations that facilitate the transition throughout the relevant business years; and
- Projecting the evolving labour requirement position through the course of the transitional period in order to establish in a rigorous manner the timing (eg. business year) and developmental stage at which the on-site accommodation becomes operationally requisite.

If the proposal was considered to relate to an existing agricultural business on-site, then it would be within the applicant's gift to utilise any notifiable agricultural PD rights that may be exercisable by them relative to Harperland Burn in the meantime - such as may allow certain agricultural development which facilitates demonstrable steps towards practical realisation of the transition on the land unit, and such as the consequent realisation of the proposed new farming system on the ground may in turn ease the fulfilment of rural housing policy eg. criterion (a) of the supplementary guidance at a later date.

(iii) Objector Concerns

The following response is offered to the concerns of objectors;

- Proposal is contrary to the Local Development Plan, emerging Local Development Plan and related supplementary guidance in relation to Rural Housing;

An assessment of the development proposal against the relevant provisions of the Adopted South Ayrshire Local Development Plan, the emerging Local Development Plan and the related supplementary guidance is set out above. For the reasons noted above and elsewhere in this report, there are policy issues with the proposal.

- Lack of supporting business case and financial information to support the proposal;

Noted. The supporting business case for the proposal has been considered elsewhere in this report.

- Adverse impact on visual amenity, including the need for appropriate boundary treatment;

Given the nature of the development proposal i.e planning permission in principle, it would be for future and further detailed applications to establish the precise details of the proposal in terms of its siting, design, materials, means of access and landscaping/ boundary treatments if this application were to be approved.

- Traffic and transport issues - increased traffic to and from site;

As noted above, the Ayrshire Roads Alliance (ARA) has been consulted and has made no adverse comments in terms of traffic and transportation issues arising from the proposed dwellinghouse. Accordingly, the ARA has offered no objection to the development proposal, subject to suitable conditions and advisory notes being attached to any permission, if granted.

- Infrastructure issues - proposed drainage arrangements, and existing flooding would be exacerbated;

There are no known infrastructure issues associated with the site. The provision of an adequate supply of water to service the development, without adverse impact on adjacent users is a matter for the applicant, in conjunction with Scottish Water, if granted. Both SEPA and the ARA have been consulted on the application proposals and offer no objection from a flood risk perspective.

Notwithstanding, for the reasons noted elsewhere in this report, there are policy concerns in relation to the development proposal.

- Miscellaneous concerns – proposed development should be located in an alternative location.

The purpose of this application is to consider the principle of erecting a dwellinghouse and 2 x agricultural sheds in the specified location.

(iv) Impact on the Locality

The application site is set within a rural area, and the development proposal seeks planning permission in principle for the erection of a dwellinghouse to provide on-site accommodation for a person involved in a proposed agriculture business at Harperland Burn. The proposal also seeks planning permission in principle for the erection of 2 x agricultural sheds. Given the nature of this application, details for the configuration and setting out of the dwellinghouse and sheds would require to be established by the submission of further applications. Therefore, the impact of the proposal on the amenity of the locality can only be considered in terms of the principle of the erection of a dwellinghouse at this location. The Local Development Plan and related supplementary guidance in relation to Rural Housing set out the criteria against which rural residences serving rural based business are considered to be acceptable. The application has been assessed against the information which accompanied the original planning application submission, and it is asserted that the application proposal is presented as a new, standalone agricultural enterprise based at – and for the sole purposes of operations upon – the c.14ha land unit at Harperland Burn only. As set out above, provision exists within the Rural Housing SG for temporary on-site residential accommodation for a worker employed in a proposed new rural business; however, the proposal as submitted seeks provision of permanent on-site accommodation. As set out above, it is materially important to note that the Rural Housing SG does not proceed to describe any circumstances / other material considerations by which it envisages such a deviation could be found appropriate in planning terms. In addition, the proposal as submitted supplies a business plan which lacks the requisite detail prescribed by the Rural Housing SG.

While it is noted that the applicant's agent asserts that the proposals relate to an existing business, it is clear that the submitted business plan sets out a fundamentally different operation to that of the existing operation which pertains to a distinct and more limited manner of part-time co-dependent agricultural contracting.

For the reasons noted elsewhere in this report, there are concerns in relation to the development proposal, which is considered to be premature, in that permanent residential accommodation is proposed and that the business plan is lacking in detail to fulfil the requirements of the Rural Housing SG.

8. Conclusion:

For the reasons noted above, there are policy concerns in relation to the proposal. It is considered that the development is contrary to the provisions of the Adopted South Ayrshire Local Development Plan, and also the Adopted Supplementary Planning Guidance in relation to Rural Housing, and that there are no material planning considerations that would out-weigh these provisions. Given the above assessment and having balanced the applicants' rights against the general interest, it is recommended that the application be refused, for the reasons below.

9. Recommendation:

It is recommended that the application is refused for the following reason: -

Reason:

1) That the development proposal is contrary to the Rural Housing Policy of the Adopted South Ayrshire Local Development Plan and the Council's Supplementary Guidance in relation to Rural Housing in that it has not been demonstrated to the satisfaction of the Council that the new business is economically viable, and no satisfactory justification has been provided which would permit the erection of a permanent residential dwellinghouse, at this time, to serve the proposed rural business.

Advisory Notes:

N/A

List of Determined Plans:

Drawing - Reference No (or Description): L(00)002

Drawing - Reference No (or Description): L(00)003

Drawing - Reference No (or Description): L(00)001

Reason for Decision (where approved):

Background Papers:

1. Planning application form, plans and supporting information (available online)
2. Adopted South Ayrshire Local Development Plan (available online)
3. South Ayrshire Council Supplementary Planning Guidance - Open Space and Designing New Residential Developments (available online)
4. Representations (available online)
5. Scottish Planning Policy (available online)
6. Modified Proposed Local Development Plan 2
7. Consultations

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Mr David Clark, Supervisory Planner (Place Planning) - Telephone 01292 616 118

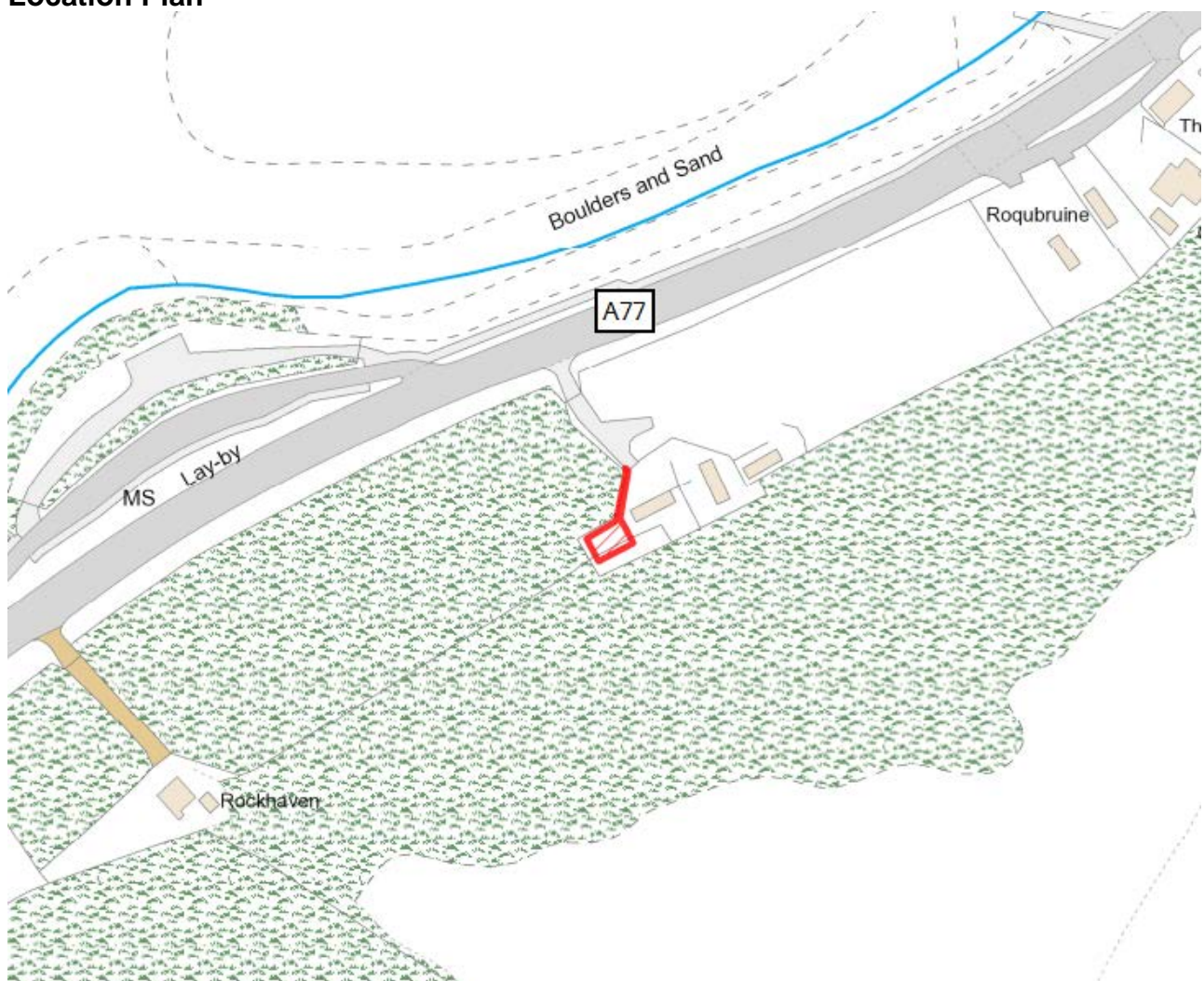
REGULATORY PANEL: 23 JUNE 2022

22/00334/APP

RETENTION OF EXISTING CONSTRUCTION SITE OFFICE BUILDING FOR USE AS A PERMANENT CARAVAN SITE OFFICE/ RECEPTION AND CONSTRUCTION OF ASSOCIATED ACCESS PATH AT LAND AT WHILK MEADOW, A77T FROM LENDALFOOT TO MAIN STREET BALLANTRAE, SOUTH AYRSHIRE

REPORT BY PLACE DIRECTORATE

Location Plan



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Summary

This application is for the retention of an existing construction site office building for use as a permanent caravan site office/reception and the construction of an associated path. Following review, it is considered that the proposal is capable of positive consideration against the terms of the Local Development Plan and associated guidance and it is therefore recommended that the application be approved, subject to conditions.



REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00334/APP
SITE ADDRESS:	LAND AT WHILK MEADOW A77T FROM LENDALFOOT TO MAIN STREET BALLANTRAE BALLANTRAE SOUTH AYRSHIRE
DESCRIPTION:	RETENTION OF EXISTING CONSTRUCTION SITE OFFICE BUILDING FOR USE AS A PERMANENT CARAVAN SITE OFFICE/ RECEPTION AND CONSTRUCTION OF ASSOCIATED ACCESS PATH
RECOMMENDATION:	APPROVAL WITH CONDITIONS

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal:

1.1 Site Description

The application site comprises an area of ground contained within an open, elongated rectangular shaped low-lying parcel of land adjacent to the A77 to the south-west of Lendalfoot. The application site alongside the immediately neighbouring parcel of land to the north-east forms part of a caravan site and this has already been established as being an existing, lawful use through a Certificate of Lawfulness granted (Reference: 16/01091/COL) and separate Caravan Site Licenses granted by the Council's Environmental Health Service. This holiday caravan park on the wider site is under construction and is currently being developed for 18 caravans in line with the terms of the most recent Caravan Site License approval (Reference: CSL/53).

The site sits slightly elevated at the top of a modest slope and is positioned close to the bottom of a hillside which extends along the southern boundary which is defined by a post and wire fence. Access to the site is obtained to the immediate south of the application site via a lay-by off of the A77 which serves the caravan park. A planning application (Reference: 21/00251/APP) was granted in May 2021 to upgrade this vehicular access and also construct a foul drainage pipe in relation to the associated caravan site.

1.2 Planning History

Whilst the application site for the proposals is relatively modest in scale and footprint (covering approximately 70 square metres), as previously set out above, it forms part of a larger site which has an extensive planning history to it. The location plan supplied as part of this planning application provides clarification on the extent of the surrounding land owned by the applicant (area delineated by the blue boundary) and details of the planning history for the parcels of land to the northeast and southwest which form this area on the Location Plan are set out below:

- 02/01009/COL - *Certificate of lawfulness for existing use of caravan site (Permitted).*
- 08/00439/OUT - *Extension to existing caravan site for the siting of 27 units, toilet block and reception (Withdrawn).*
- 14/01232/PPP - *Planning permission in principle for the erection of 10 holiday chalets (Withdrawn).*
- 14/01458/APP – *Change of use of land to form extension to existing caravan park (Refused).*
- 15/00083/APP - *Change of use of land to form extension to existing caravan park (Withdrawn).*
- 15/00653/APP - *Change of use of land to form campsite, erection of facilities building and formation of parking area (Refused).*
- 15/00911/APP - *Change of use of land to form campsite, erection of facilities building and formation of parking area (Refused).*
- 16/01078/COL - *Certificate of lawfulness for existing use of land as caravan site (Permitted).*
- 21/00251/APP - *Upgrade to existing vehicular access and construction of foul drainage pipe (Permitted).*

1.3 Development Proposals

Planning permission is sought for the retention of an existing construction site office building for use as a permanent caravan site office/reception alongside the construction of an associated access path.

As previously set out and indicated by the development description, the construction site office building is already present on the site itself. At this time, the building benefits from 'permitted development' under Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended). This allows for the 'provision on land of buildings, moveable structures, works, plants or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land'. In this case, the construction site office building is in connection with the operation works associated with the construction of the Whilk Meadow holiday caravan park which is authorised in planning terms through the combination of the certificate of lawfulness and caravan site license(s) as previously set out.

Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) includes conditions (Part 3a) and 3b) of Class 14) which would require the building to be removed and the ground to be reinstated to its condition before the development was carried out, once the relevant operations have been completed on site. Following discussions with both the agent and the applicant during a separate enforcement enquiry, clarification was sought from both parties in terms of their intentions for the construction site office building going forward and as part of this they were made aware of the limitations in terms of the timescales afforded through the conditions of Class 14. In advance of the construction work associated with the holiday caravan park being completed on the site, the applicant has sought to apply for planning permission for the permanent retention of the building on the site; this forms the current application.

The building measures approximately 7.5 metres wide, 3.6 metres in depth and 3.3 metres in height to its highest point. It is approximately 27 square metres in footprint and internally it accommodates an office/reception area, a kitchen and a WC.

In terms of its design, it includes two full length windows and a double door on the front elevation with a single window on the northern facing side gable. The building is essentially flat roofed but incorporates a slanted/angled roof design (which declines front to back) and this includes a gutter just below the rear elevation roof eaves for roof water catchment which will percolate to an infiltration trench to deal with surface water drainage. The building also has a foul drainage connection which links to the site's overall foul drainage system. The material make-up of the building comprises of horizontal light grey cladding for the external walls and dark grey upvc doors, windows and rainwater goods. The building rests on a concrete base which projects out beyond the front elevation of the building and this has been topped with a gravel type material.

The proposed access path is to feed directly off of the internal vehicular access road to the site to the front of the building and as indicated on the proposed plans, this is to be formed with gravel.

This planning application is being reported to the Regulatory Panel, in accordance with the Council's Scheme of Delegation, as a Community Council has formally objected to the application.

2. Consultations:

- **Transport Scotland:** 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.

The application has been accompanied by a Location Plan, a Site Plan, a Floor Plan and a Elevation Plan.

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:

1 representation have been received from Colmonell & Lendalfoot Community Council who object to the proposed development. The representation can be viewed in full online at www.south-ayrshire.gov.uk/planning. The grounds of the objection alongside a response to each objection by the Planning Service is set out in detail in sub-section V) 'Objector Concerns' of the Assessment section below.

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning.

7. Assessment:

The material considerations in the assessment of this planning application are the provisions of the development plan, the impact of the proposal on the amenity of the locality and the representation received.

(i) Local Development Plan 1

Section 25 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 following provisions of the development plan are considered relevant to the consideration of this application:

The following policies are relevant in the assessment of the application and can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx>

- LDP1 Policy: Spatial Strategy (Carrick Investment Area)
- LDP1 Policy: Sustainable Development
- LDP1 Policy: The Coast
- LDP1 Policy: Tourism
- LDP1 Policy: Landscape Quality
- LDP1 Policy: Protecting the Landscape

A summary of each of these LDP1 policies and how they relate to the proposed development (where appropriate) is set out below:

- Spatial Strategy

This policy states that the Council will support development which encourages sustainable economic growth, improves the quality of the environment and helps to create sustainable communities. All development requires to be considered against the priorities set out in the spatial strategy (as below) and LDP Policy: Sustainable Development.

The Council will not support development outwith the boundaries of settlements (towns and villages), except where it can be justified because it will benefit the economy and there is a need for it in that particular area and in line with the spatial strategy. The Spatial Strategy of the LDP sets out the settlement strategy for South Ayrshire and can be viewed as the foundation framework which provide the vision for how the Council wishes to see the towns and countryside areas develop over the duration of the plan. The terms of the Spatial Strategy are noted.

Within the Carrick investment area specifically (which applies in this case), the Council will encourage development if:

- it results in new housing at allocated housing sites (shown in the settlement maps);
- it promotes rural diversification and tourism;
- it results in the non residential re-use of a substantially intact building, which will benefit the local environment;
- it promotes the Galloway and Southern Ayrshire Biosphere and Galloway Forest Dark Sky Park; and wind farm developments are directed to preferred wind farm search areas.

The Carrick Investment Area policy of the LDP seeks to promote rural diversification and tourism. While the proposal is not in itself a tourism development, it is ancillary to the holiday caravan park use and the building is to be retained to act as a site office/reception for the caravan park and support its operation.

- The Coast:

The LDP coastal policy requires development within the coastal areas to be in accordance with the coastal strategy, and to protect or improve the scenic and environmental quality of the area. The LDP (Appendix B) applies a presumption against development in the undeveloped coastal areas, except that associated with existing uses. Minimal development, which does not impinge upon the surrounding landscape and which has particular regard to visual amenity and nature conservation may be acceptable. Specifically, the provision of additional formal visitor facilities and development is not encouraged.

In this case, the exceptions afforded in the LDP apply as the building in question and the proposed path are associated with an existing use. More specifically, the application site sits within the wider Whilk Meadow holiday caravan park (which has a lawful existing use under a certificate of lawfulness as previously set out). Whilst the policy seeks to discourage the provision of additional formal visitor facilities, in this case the building in question and the associated path do not apply as they represent an ancillary feature to the primary facility on the site which operates as a holiday caravan park.

- Tourism:

The LDP Tourism policy is broadly supportive of proposals which provide or improve tourist and leisure facilities and sets specific criteria and requirements for tourist accommodation proposals. As the proposals are for the retention of a site office building and a new path, the tourist accommodation requirements of the policy do not directly apply. More broadly however, the proposed development is considered favourably in relation to the policy as the retention of the building to act as a site office/reception for the primary holiday caravan park use on the site will support and improve the running of the holiday caravan park facility.

- Landscape Quality and Protecting the Landscape:

The application site is located within a scenic area as defined in the LDP. The Landscape Quality policy seeks to ensure that development proposals do not have an adverse impact on the rural landscape setting of the scenic area and that they conserve features that contribute to local distinctiveness.

The LDP policy Protecting the Landscape sets conditions to which proposals within or next to a landscape character or scenic area need to be considered against. This includes the significance of impacts and cumulative impacts on the environment, landscape and visual effects, benefits to the economy and whether the proposals can be justified in the rural location sought.

The retention of the building as a site office/reception for the caravan park and the installation of a new path do not adversely impact upon the character and amenity of the surrounding area and landscape. Weight is given to the fact that the proposals represent modest ancillary features to the holiday caravan park use and that within the context of the site, they are commensurate and complimentary features which will not unduly impact upon the applicable landscape characters or the wider landscape itself.

- Summary of LD1 Policies

It is considered that the proposal accords with the provisions of the Development Plan. The specific matters covered by the policies above are considered further in the proceeding sub-section below.

(ii) Proposed Local Development Plan 2

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP2) and issued its Examination Report on 10th January 2022. At a special meeting of the Council on 10 March 2022, Members accepted the modified LDP2 and approved it for submission to Scottish Ministers as the Council's intended adopted Local Development Plan. LDP2 now forms a substantial material consideration in the determination of planning applications.

With respect to the proposed development, policies contained within LDP2 are not at significant variance with those of the adopted LDP1. These are set out below:

- LDP2 Policy: Core Principle B1
- LDP2 Policy: Core Principle C1
- LDP2 Policy: Strategic Policy 1 Sustainable Development
- LDP2 Policy: Strategic Policy 2 Development Management
- LDP2 Policy: Tourism
- LDP2 Policy: Landscape Quality
- LDP2 Policy: The Coast

It is considered that the proposal accords with the provisions of the Development Plan. The specific matters covered by the policies above are considered further in the proceeding sub-section below.

The provisions of LDP1 and 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.

(iii) Other Policy Considerations (including Government Guidance)

Scottish Planning Policy (2014) forms the statement of the Scottish Government's policy on nationally important land use planning matters. The SPP maintains a plan-led approach to development, and emphasises that "planning should direct the right development to the right place".

In terms of rural development Paragraph 75 states that the planning system should:

- In all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces;
- Encourage rural development that supports prosperous and sustainable communities and business whilst protecting and enhancing environmental quality".

In essence, the SPP seeks to balance development and economic growth in a sustainable manner whilst also protecting and enhancing the environmental quality and landscape of an area. In implementing this approach, this will require development proposals to respond to the specific local character of the location, to fit sensitively and appropriately into the existing landscape setting of the area and not to adversely impact on the rural area in which it is set.

For the reasons noted elsewhere in this report the development proposal is considered to be compatible and commensurate for the site noting its design, location and the surrounding use to which it relates. As such the proposal is considered to comply to the provisions of Scottish Planning Policy.

(iv) Impact on the Locality

It is considered that the continued siting of this building on a permanent basis will not give rise to residential or visual amenity concerns given both the location of the site and that the use of the building (site office/reception area) is ancillary to and commensurate with the use of the associated land to the north and northeast as a holiday caravan park. The building is appropriately located within the curtilage of the holiday caravan park currently being developed and set back from the road on the southern edge of the caravan park site, in close proximity to the primary entrance of the site. Once construction work associated with the caravan park is completed it is considered that it will represent a commensurate and compatible style of building which is both ordinarily and commonly associated with these types of uses. Given the use and operation of the site to which it relates and the built form associated with the use (including the caravans themselves), combined with the design and arrangement of the building itself, it is also not considered that the development would have any significant effect on the landscape character of the area, including the coastal and scenic area designations that apply to the site.

Following review, it has been established that it is not necessary to limit the presence of the building to a temporary consent/permission. The building itself is considered to be in a good condition and appearance and it is established on site with a concrete base/foundations and connections to drainage and sewage in place. All of these factors contribute to allow it to be understood and read as a permanent feature on the site. In addition to this, no conditions are required to limit or restrict the use and function of the building itself. The development description for the planning permission application is prescriptive and specific in terms of the proposed use and if planning permission is granted then this in itself will sufficiently define and limit the buildings use and functionality.

In addition to the building itself, the access path leading up to the building poses no issues and it is considered that this will be an inconspicuous addition in relation to the holiday caravan park itself.

(v) Objector Concerns

The representation received from Colmonell & Lendalfoot Community Council in relation to the proposal are summarised (*italics*), and responded to (**bold** and *italics*) below as follows:

- *The development of the field at the Whilk to form a caravan site with 18 pitches has not been properly consented and the Community Council has lodged a formal request with the Scottish Public Services Ombudsman for an independent review of the consenting of this development and South Ayrshire Council's response to the concerns raised by the Community Council. The planning process has been circumvented when in 2015 owner of the site applied for and South Ayrshire Council granted a Caravan Site License without there being any planning permission in place. The Community Council believe the Caravan Site License for the Whilk Caravan Site should be revoked and a full planning application for what is a material development should be required.*

The matters raised above have been reviewed and addressed separately by South Ayrshire Council as part of an extensive review and investigation. The position reached is that the site in question (which includes the application site for this particular application) benefits from an existing lawful use as a caravan site through a combination of a Certificate of Lawfulness granted by the Council (Reference: 16/01091/COL) and separate Caravan Site Licenses granted by the Council's Environmental Health Service. This holiday caravan park on the site and the wider land to the north and north east is under construction and is currently being developed for 18 caravans in line with the terms of the most recent Caravan Site License approval (Reference: CSL/53). Colmonell & Lendalfoot Community Council have been issued with formal written responses which set out the grounds to which the Council's position on this has been reached.

Given the Council's position and findings on these matters, the proposals subject to this application have been considered within the context of the lawful caravan site to which they relate, with the development being considered to be ancillary to the lawful use on the land. Beyond establishing this point (which is material for this proposal), this planning application requires to be considered on its own merits and as such the above matters, including the Community Council's opinion on the planning status of the site and other matters including the intentions for a separate independent review by the Public Services Ombudsman cannot be afforded due weight as part of the assessment and determination of this planning application.

- *In 2015 the same site was the subject of a number of planning applications for development that were the subject of local objection and refused.*

As previously set out and scheduled earlier in this Panel report, there were a number of planning applications submitted in both 2014 and 2015 which sought planning permission in principle and/or full planning permission to change the use of the land primarily to the southwest of this current application site to either extend the caravan park or to form a new campsite/holiday chalet development. These applications were either refused or withdrawn. The current application site for this planning application did in some cases sit within the auspices of the application site for these earlier applications in 2014 and 2015. Notwithstanding this, it is fundamental to note that the current application site forms part of the application site for Certificate of Lawfulness application; 16/01078/COL, which in 2016 granted an existing caravan site use on the land subject to this certificate. It is of material significance to the assessment of this application that the application site for this current planning application formed part of the land established as an existing caravan site use through the certificate granted.

- *The proposed development is contrary to the Local Development Plan adopted by South Ayrshire Council in 2014 which makes specific provision for the development of coastal areas. The proposed development goes against the priority of conservation of natural resources. The Community Council does not accept that the retention of the construction site office falls within the exception of being associated with existing use. The proposed development is inconsistent with the objective to enhance and manage the unspoilt nature of the area and the focus on concern for landscape and protection of natural beauty. The Community Council does not believe the retention of a prefabricated construction site office to be appropriate and believe it detracts from what is a unique stretch of coast with high amenity value.*

As set out earlier in the assessment section above, the Planning Service consider the building to represent an ancillary feature with the application site forming part of wider land established as a lawful existing caravan site use through the earlier certificate granted.

Taking the design and appearance of the building, its intended purpose and the wider use and development of the caravan park to which it relates, is not considered that the building detracts from the amenity of the area or any sensitive landscapes to a point which would warrant refusal of the application.

In addition to this and contrary to the point raised above, the Planning Service do consider that this building falls within the exception of being associated with the existing use as afforded through the terms of the relevant policy and that it is clearly an ancillary and subordinate feature which will be in place to support the wider use of the land to which it relates as a holiday caravan park.

- *Retention of the construction site office for use as a reception is against the Local Development Plan which discourages the provision of additional formal visitor facilities.*

The use of the building as a site office/reception is considered to be ancillary and subordinate to the overall use and function of the site as a lawful holiday caravan park. On this basis, it is not considered that this building in itself represents additional formal visitor facilities but instead relates to an ancillary feature associated with an existing tourism and visitor facility on the site (e.g. the holiday caravan park).

- *The Community Council understand the policy against the ribbon development of housing in hamlets and villages. Although rows of pitches are perhaps inherent in the design of a caravan park retaining the construction site office extends the development of the Whilk Caravan Site which itself disregards the policy against ribbon development.*

The ribbon development considerations set out above is primarily a matter which applies to new residential development in the countryside. As such, it is not considered to be applicable to this planning application noting the nature and purpose of the development.

- *Granting consent to this application would be inconsistent with the way planning policy has been applied in respect of other proposed developments including the refusal of planning application 17/00822/APP, a proposal to build two new houses in Lendalfoot in spite of broad support within the community.*

Each application has to be considered on its own merits taking into account the relevant policy context and other material considerations. Therefore, the application referenced above is not material to the assessment of the current planning application being considered.

- *If planning consent is granted, it should be subject to conditions that preclude use of the construction site office for residential purposes (including “glamping”). Furthermore, there should be protection against the further development of the remainder of the field.*

Following both review and assessment, the Planning Service did not consider that any planning conditions are required in this instance. As referenced earlier in the assessment section above, upon receipt of the application, the development description was amended by the Planning Service to reflect the proposed use of the building; ‘Retention of existing construction site office building for use as a permanent caravan site office/ reception’. If planning permission is granted, the development description is considered to be prescriptive enough as to sufficiently define and limit of the use of the building itself.

With regards to the point regarding the protection against further development of the remainder of the wider field, it would not be appropriate to impose any conditions to this effect as part of this particular planning application.

The application site for this planning application is situated within the auspices of the site boundary which was granted existing lawful use as a caravan site through the Certificate of Lawfulness in 2016 (Reference: 16/01078/COL). Any proposals for development or works to the undeveloped field to the southwest of this application site would require to be considered on their own merits as has been the case with various planning applications submitted and determined for this area of land in the past.

8. Conclusion:

Given the above assessment and having balanced the applicant's rights against the general interest, it is recommended that the application be approved.

9. Recommendation:

It is recommended that the application is approved.

List of Determined Plans:

- Location Plan (Drawing No. 5901-C-101 Rev B)
- Proposed Plan and Elevations (Drawing No. 5901-C-103)
- Proposed Site Plan (Drawing No. 5901-F-102)

Reason for Decision (where approved):

The siting and design of the retained building and the associated path are considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land or the surrounding environment and landscape.

Background Papers:

1. Application form, plans and submitted documentation
2. Representations
3. Adopted South Ayrshire Local Development Plan (LDP1)
4. Proposed South Ayrshire Local Development Plan (LDP2)
5. Scottish Planning Policy (SPP)

Equalities Impact Assessment

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Mr Ross Lee, Supervisory Planner (Place Planning), 01292 616 383

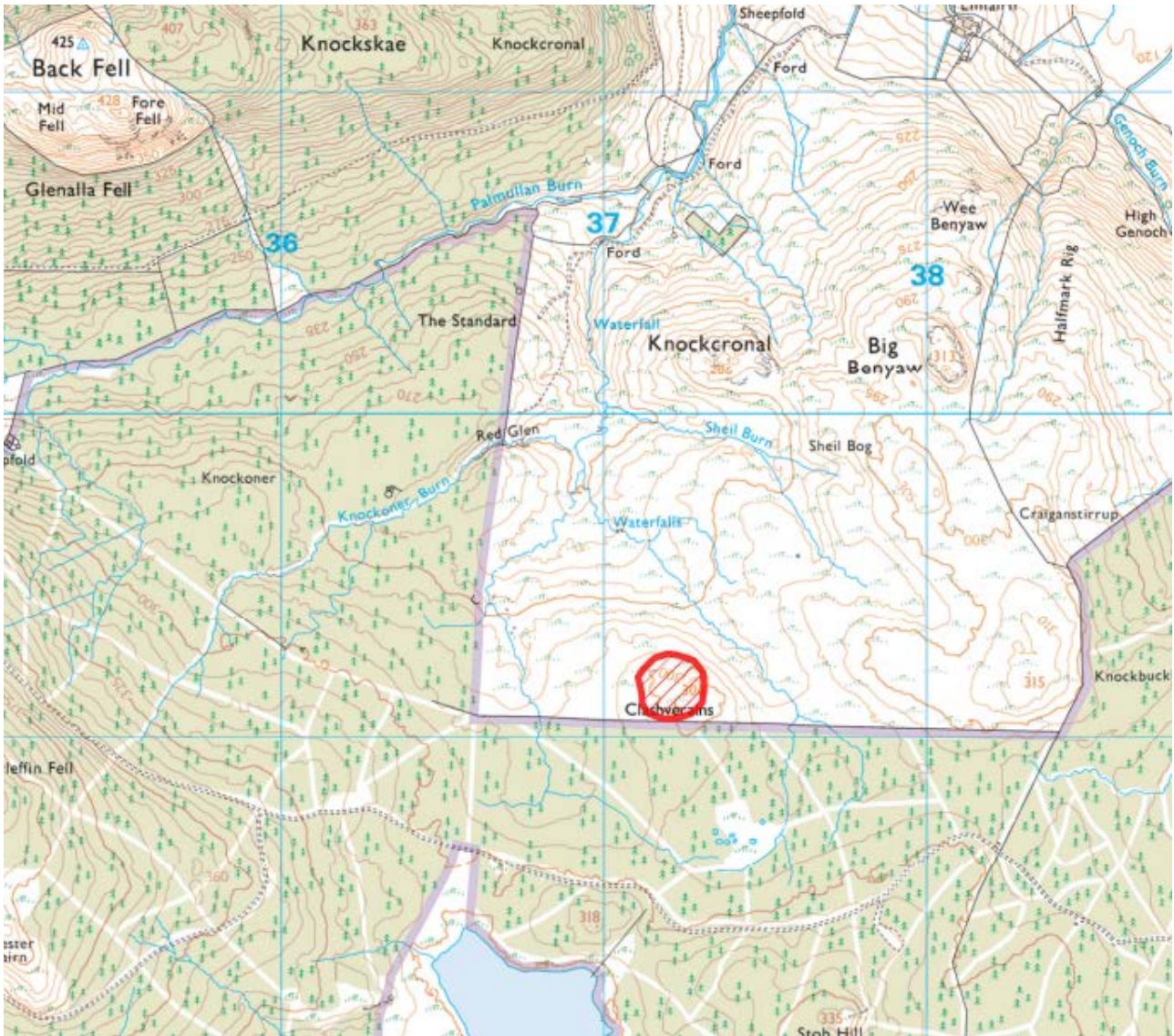
REGULATORY PANEL: 23 JUNE 2022

22/00242/APP

ERECTION OF A TEMPORARY 140M HIGH TEMPORARY METEOROLOGICAL MAST AT KNOCKCRONAL, U4 FROM C1 JUNCTION NEAR CRAIG VIA BALBEG AND DALMORTON TO PALMULLAN BRIDGE STRAITON, SOUTH AYRSHIRE

REPORT BY PLACE DIRECTORATE

Location Plan



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Summary

This application is for the erection of a temporary 140m high meteorological mast at Knockcronal, which is located in an application site approximately 5.6km to the southwest of Straiton. Following review, it is considered that the proposal is capable of positive consideration against the terms of the Local Development Plan and associated guidance, and it is therefore recommended that the application be approved, subject to conditions.



REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00242/APP
SITE ADDRESS:	KNOCKCRONAL U4 FROM C1 JUNCTION NEAR CRAIG VIA BALBEG AND DALMORTON TO PALMULLAN BRIDGE STRAITON SOUTH AYRSHIRE
DESCRIPTION:	ERECTION OF A TEMPORARY 140M HIGH METEOROLOGICAL MAST
RECOMMENDATION:	APPROVAL WITH CONDITIONS

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. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. **Proposal (including development details, application site description and planning history):**

Planning Permission is sought for the installation of a meteorological mast for a temporary period of up to three years, after which the mast would be removed, and the site would be restored to its current condition. The meteorological mast would be up to 140m in height and would take the design of an elongated steel tube with a matt finish. The mast would be supported by steel guy wires/ropes connected to anchors (either raft or concrete foundation at the mast point) to secure the met mast in-situ. The guy wires/ropes would extend out to a maximum distance of 100m.

A meteorological monitoring system would be mounted on the mast fixed to horizontal booms. This would consist of a series of anemometers, wind vanes, thermometers, barometers, data logger, solar panel or power supply and lighting rod (to protect the tower against any potential lightning strikes). The equipment would gather a range of meteorological data for the three-year period in order to provide a detailed understanding of the wind characteristics in the area.

The site itself lies approximately 5.6km south of Straiton within South Ayrshire Council. The specific location has been chosen by the applicant as this site is considered to be in an optimal position in relation to assessing the wind regime for the proposed Knockcronal Windfarm development. The land within the site comprises of semi-improved acid grassland/marshy grasslands and the condition of the site is of varying topography with the mast to be situated at approximately 303m Above Ordnance Datum (AOD). A micrositing allowance of up to 50m in all directions is being sought for the mast location and the application site boundary reflects this. The site location is not located within any sensitive environmental and heritage designations and/or constraints.

Access to the site would be taken via A77 and B7045 to Straiton. From Straiton, the site is reached from travelling south along Newton Stewart Road for approximately 2.5km (with the entrance to Linfairn Farm on the right hand side) and following the road past Balbeg and Dalmorton to Linfairn Farm. From Linfairn Farm the meteorological mast location would be accessed via 4x4 or all-terrain vehicles, therefore no access tracks would be required as part of the development.

In terms of planning history, Knockcronal Wind Farm Ltd (the same applicant as this application) has submitted an application to the Scottish Government for the development of a wind farm comprising of up to 9 turbines total alongside other features and infrastructure. The Scottish Government have consulted South Ayrshire Council on this application (Council Reference: [21/00993/DEEM](#)) and the meteorological mast application site sits within the auspices of this wider development site. The Planning Service is currently considering the wind farm application with an intention to take their assessment and recommendations as a statutory consultee to the Council's Regulatory Panel in June 2022.

This planning application is being reported to the Regulatory Panel, in accordance with the Council's Scheme of Delegation, as a Community Council has formally objected to the application.

2. Consultations:

- **National Air Traffic Services (NATS) Safeguarding: No objections.** NATS Safeguarding advise that the proposed development has been examined from a technical safeguarding aspect and does not conflict with their safeguarding criteria and that as a result, they have no safeguarding objection to the proposal.
- **Ministry of Defence (MoD): No objection subject to conditions.** In their consultation response, the MOD advise that the application site falls within part of the UK Military Low Flying System designated Tactical Training Area which is an area within which fixed wing aircraft may operate as low as 100 feet or 30.5 metres above ground. As a result they consider that the introduction of the meteorological mast in this location has the potential to introduce a physical obstruction to low flying aircraft operating in the area. Notwithstanding this, the MOD has advised that they would have no statutory safeguarding objections subject to the imposition of mitigation secured through conditions. The first requires the met mast to be fitted with aviation safety lighting which produces 25cd visible or Infra-Red lighting). The second condition relates to a requirement for the applicant/agent to notify the MOD with certain information to allow them to update their aeronautical charts and mapping records. This includes details of precise location, the date of commencement of construction, date of completion of construction, the height of the structure, the maximum height of any construction equipment and details of aviation warning lights to be fitted.
- **Glasgow Prestwick Airport (GPA): No objections.** GPA in their initial consultation response dated 26/04/22 issued a holding objection to the application. GPA advised that given the proposed met mast position and height (140m/459ft above ground level in an area of already high ground of circa 300m/984ft) and the fact that it is on the edge of our ATS Surveillance Minimum Altitude Chart (AD 2-EGPK-5-1) and in close proximity to published flight paths, a Instrument Flight Procedure (IFP) Assessment is required to be conducted to confirm that the proposed met mast has no impact on both on their charts and regulations. The IFP Assessment was subsequently undertaken following further review, GPA provided a re-consultation response dated 31/05/22 to confirm their acceptance of the findings and in turn, their withdrawal of their initial holding objection.
- **South Ayrshire Council Biodiversity and Ranger Services: No objections subject to conditions.** Whilst this section has no objections to the proposed development, they highlight Section 5.2 Ornithology of the Applicant's Supporting Statement which in line with NatureScot Guidance 'Assessment and mitigation of power lines and guyed meteorological masts on birds', makes reference to the potential for installation of bird diverters on the guy wires associated with these proposals in order to further reduce potential collision risk. Whilst this consultee acknowledges that the mast location is considered to be in a low collision risk, they do reference the fact that Loch Bradan is situated approximately 4km from the site and is an important lek site for black grouse. As a result of this, they recommend that line marking/installation of bird diverters on the guy wires would be appropriate to secure to reduce risk of collision from birds moving between leks or dispersal.

- Royal Society for the Protection of Birds (RSPB): No objections subject to conditions. Whilst the RSPB have no objections to the application, as the met mast is within 4km of known Black Grouse leks, and the area around the Carrick Forest in general is key for the southern Scotland population of Black Grouse, the RSPB strongly recommend that the guy wires are fitted with bird deflectors to reduce the collision risk for Black Grouse.

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.

The application has been supported by a series of plans and drawings, visualisations and wireline drawings and a Supporting Statement. The Supporting Statement includes an assessment of the potential impacts of the development on landscape and visual receptors and designations, residential and visual amenity, ecology, ornithology, geology, hydrology and hydrogeology as well as the historic environment. As part of the Supporting Statement which accompanies this planning application, the applicant also provides a planning background to the proposals, and this includes an explanation of the purpose of the temporary meteorological mast. Summarising this, the statement sets out that while it is possible to monitor wind regimes with digital equipment that utilise sonar or radar technology, the quality of the data and therefore the accuracy of the predictions derived from it are less compared to physically monitoring the wind resource at a range of heights using a static tall mast. For the purposes of design, impact assessment and project financing, particularly with the high wind speeds that occur at this site, the applicant advises that a temporary met mast is both vital and necessary for the measurement of accurate wind data for determining the wind resource for the prospective Knockcronal Windfarm development.

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:**

1 representation have been received from Barr Community Council which objects to the proposed development. The representations can be viewed online at www.south-ayrshire.gov.uk/planning. The issues raised in the representations can be summarised as follows (italics below):

- *Proposed met mast installation is both premature and speculative.*
- *No further wind farms and associated developments should be permitted locally until a coordinated and independent review of all potential cumulative impacts and effects of wind-farm densification has been carried out by or on behalf of the Scottish Government.*

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. A response to these representation 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), representations received, consultation responses received and the impact of the proposal on the amenity of the locality.

(i) Development Plan

Section 25 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 following provisions of the development plan are considered relevant to the consideration of this application:

The following policies are relevant in the assessment of the application and can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx>

- LDP Policy: Sustainable Development
- LDP Policy: Wind Energy
- LDP Policy: Landscape Quality
- LDP Policy: Landscape Protection
- LDP Policy: Protecting the Landscape
- LDP Policy: Natural Heritage
- LDP Policy: Air, Noise and Light Pollution
- LDP Policy: Galloway and Southern Ayrshire Biosphere
- LDP Policy: Dark Skies

Whilst the proposed meteorological mast is clearly wind energy related, it is not a wind farm/turbine development and consequently it is considered that the impacts of the proposal are assessed in terms of specific visual/landscape policies of the Development Plan, together with any implications the mast location may have on natural heritage/wildlife interests.

LDP policies on landscape quality, protecting the landscape and natural heritage seek to maintain and improve the quality of South Ayrshire's landscape and ensure that the integrity of sites is maintained. It is considered that the siting, scale, design and temporary nature of this proposal will result in no overriding adverse effect on the landscape or the integrity of the application site or the surrounding area, subject to the conditions recommended below.

Although the application site is situated in close proximity to the buffer zone of both the Galloway Forest Dark Sky Park and the Galloway and Southern Ayrshire Biosphere which are to the south and part of the east and west of the site, it is considered that the proposal will have a neutral effect on both. Aviation lighting will be required to be fitted to the mast itself as requested by the MoD however, in line with the supplementary guidance on dark sky lighting, a condition has been attached which includes a requirement for the aviation lighting to be infrared, with details of the lighting to be submitted to the Planning Service (in consultation with the MOD) for prior written approval. The combination of the lighting design secured through a condition combined with the overall temporary nature of the development contributes to allowing the impacts on night receptors to not be considered significant or adverse in this instance.

The development proposal has been assessed against the above policies and is considered to be in accordance with the development plan.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP2) and issued its Examination Report on 10th January 2022. At a special meeting of the Council on 10 March 2022, Members accepted the modified LDP2 and approved it for submission to Scottish Ministers as the Council's intended adopted Local Development Plan. LDP2 now forms a substantial material consideration in the determination of planning applications.

With respect to the proposed development, policies contained within LDP2 are not at significant variance with those of the adopted LDP1.

The provisions of LDP1 and 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.

(ii) Other Policy Considerations (including Government Guidance)

Scottish Planning Policy (SPP) highlights the value of the natural environment and that the Planning System should facilitate positive change while maintaining and enhancing distinctive landscape character. The SPP refers to areas of wild land character as identified by Scottish Natural Heritage in 2014 and notes that within such areas, that while development may be appropriate in some circumstances, there is sensitivity to any form of intrusive human activity and there may be little or no capacity to accept new development. In this case the application site is not located within the Merrick Wild Land Area but could potentially be visible from it in certain locations, including at night noting the requirement for lighting. Notwithstanding this, due to its location, scale, design and temporary nature the proposal is not considered to have any adverse impact on the Merrick Wild Land Area with this assessed in more detail in the proceeding sub-section below.

(iii) Impact on the Locality (visual, environmental and technical considerations)

At up to 140 metres high, supported by guy wires/ropes, the mast will be visible from certain locations in the surrounding area and it is accepted by the applicant in their supporting information that granting this development would introduce a new tall structural and man-made element to the baseline landscape albeit it for a defined, temporary period of time.

The Landscape and Visual Impact assessment provided has been supported by a Zone of Theoretical Visibility (ZTV) map which demonstrates the predicted visibility of the proposed met mast from the surrounding landscape. This study includes 5 different viewpoints comprising predominantly of wireline diagrams alongside one photomontage which stretch up to a 10km radius from the site. This part of the assessment, combined with the written narrative, evidence and demonstrate that despite the sizeable height of the mast, it has been designed to be slender and unobtrusive by virtue of its form, materials, and colour (dull grey matt finish). In particular, it is considered that the small diameter, narrow silhouette and the lightweight nature of the met mast and associated guy wires combined with the site location will collectively contribute to reduce the prominence and visual impact of the structure itself. The assessment also demonstrates that beyond a viewing distance of 1.5 – 2.5km, a met mast of this height may be a discernible feature of the wider landscape and that the limited mass of the design and the matt finish of the tubular construction mean they lack the substance to significantly alter the setting or appreciation of the baseline landscape.

On the site location, due weight is given to the fact that this site is relatively remote from any significant public aspect. From distant views, the met mast would not be of a sufficient scale, extent or duration to alter the existing landscape character which is already subject to modification through the introduction of human-made features. In turn, it is considered the temporary mast structure from further viewpoints would not be intrusive and that it would not constitute a defining element on the landscape. The assessment on this predicts that, where it is visible, the perceived scale and overtness of the proposed mast development will diminish with increased viewing distance, particularly when viewed in the context of this large-scale landscape. From a closer proximity and from localised viewpoints near to the site itself, the assessment demonstrates that visibility would be limited to the upper portions of the met mast and frequently restricted by intervening forestry which would limit the ability to experience unhindered views.

Whilst the proposed development as submitted did not include the provision for any notable lighting to be attached to the mast, following the consultation response received from the MOD, aviation lighting will be required. Although this will introduce a form of light at night, including the darker hours and evening, it is not considered that this would be so significant as to adversely impact upon the Galloway Forest Dark Sky Park, the Galloway and Southern Ayrshire Biosphere and more broadly the Merrick WLA. As previously set out, the aviation lighting is a fundamental requirement of the MOD to ensure safety measures for low flying aircraft in the area and therefore it is not open to negotiation if such lighting is necessary or not. Notwithstanding this, the lighting will be infrared as secured for through an appropriately worded planning condition and this safeguarding design component (which is in line with current guidance in relation to dark skies parks) combined with the overall temporary nature of the development combines to allow for the visual impact of the lighting not to be considered significant or to reach an unacceptable level.

The Supporting Statement submitted as part of this planning application also includes an assessment of the potential impacts of the development on residential and visual amenity, ecology, ornithology, geology, hydrology and hydrogeology as well as the historic environment. The surveys and supporting information produced for the EIA Report for the prospective Knockcronal Windfarm application have been used to inform considerations of each of these topics for this specific development. From review of the assessment provided for each of these topics, it is considered the application site chosen combined with the position of the met mast within the landscape (which would be located on semi-improved acid grassland/ marshy grasslands within the site) would not result in any unacceptable impact on natural heritage, built environment, built heritage, hydrogeological matters or the amenity of nearby residents during the relatively short period that it would be erected for. Following consultation with both the Council's Biodiversity and Ranger Services and the RSPB, one condition is proposed requiring the installation of bird divertors/line markings on the guy wires supporting the meteorological mast and this is included below.

Further to all of the above and as referenced throughout this report, significant weight also requires to be given to the fact that the development is of a temporary nature and that the applicant has requested permission for the mast to remain for a relatively short period of 3 years. After the 3 year timescale, the applicant advises that the mast (including the associated foundations and anchor points) would be removed from the site, with the disturbed land in the site reinstated in full as an integral part of the decommissioning process. The fact that the development is temporary and includes reinstatement allows any potential impacts and effects (both direct and indirect) as set out above to be categorised as both short-term and wholly reversible and this offers further support and justification in favour of the proposals. On this basis, and subject to the conditions to secure the temporary consent and reinstatement, it is considered that the proposal will not have an over-riding detrimental impact on the locality, the surrounding landscape and any other environmental or technical factors and constraints which are relevant or applicable.

(iv) Consultee responses received

It is noted that National Air Traffic Services, the Ministry of Defence, the Council's Biodiversity and Ranger Services and the Royal Society for the Protection of Birds do not object to the application. Whilst Glasgow Prestwick Airport initially issued a holding objection, following the completion of an IFP Assessment, this established that there would be no IFP infringements from the proposed meteorological mast development. On this basis, Glasgow Prestwick Airport provided an addendum consultation response which confirmed the withdrawal of their holding objection.

It is relevant to note that the Ministry of Defence has no objection subject to the imposition of conditions requiring aviation lighting and notifications, both of which are included in the recommendation below. The Council's Biodiversity and Ranger Services and the Royal Society for the Protection of Birds have also requested a condition relating to bird deflectors for the guy wires and again this mitigation has been included as a condition in the recommendation below as set out.

(v) Objector Concerns

The focus of the points of objections received in the representation from Barr Community Council relate to the fact that they consider the application to be both premature and speculative. As part of this they reference a wider need for this proposal to be considered collectively alongside all other windfarm proposals in an independent review to establish capacity and cumulative impacts in more general terms. In response to this, it is important to note that each application has to be considered on its own merits taking into account the relevant policy context and other material considerations. Applications for other development, including wind turbines, will equally be considered on their own merits should they be received. For clarity, the implications of further wind turbines are not material to the consideration of this application.

It is also relevant to note that the applicant within their supporting information which accompanies this application acknowledges that although part of the wind farm process, this is a standalone planning application which seeks temporary consent for monitoring equipment. As part of this, they confirm in the written narrative their understanding and awareness that this development does not constitute a renewable energy development and that a decision on this current application has no weight and will in no way prejudice the outcome of the separate Knockcronal Windfarm application that was submitted to Scottish Ministers in November 2021 and which is before the Council for consideration as a consultee. This acknowledgement and acceptance further reinforces the recognised distinctions between this current application and other windfarm developments on both the same site but also in the wider locality.

8. Conclusion:

Given the above assessment and having balanced the applicant's rights against the general interest, it is recommended that the application be approved subject to conditions.

9. Recommendation:

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

- 1) 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) That the approval for the proposed use is limited to 3 years at which date the use of the meteorological mast shall be terminated and the meteorological mast shall be removed from site. Furthermore, the site shall be restored to its former condition in accordance with a written specification, including a timescale within which the works shall be implemented, to be submitted for the prior written approval of the Planning Authority. The restoration specification shall be submitted within 2 months of the date of this planning approval and implemented as approved.
- 3) That prior to the meteorological mast hereby approved becoming operational, bird divertors/line markings in accordance with the criteria as set out in NatureScot's Guidance 'Assessment and Mitigation of Impacts of Power Lines and Guyed Meteorological Masts on Birds' (dated 2016) shall be installed on all of the guy wires supporting the meteorological mast. These bird divertors/line markings once installed shall thereafter be maintained for the lifetime of the development (e.g. 3 years from the date of this consent) unless otherwise agreed in writing by the Planning Authority.
- 4) That prior to the commencement of development (including the deployment of any construction equipment or temporal structures 15.2 metres or more in height above ground level), an aviation lighting scheme shall be submitted to and approved in writing by the Planning Authority (in consultation with the Ministry of Defence). The aviation lighting scheme shall include details and information relating to the following:
 - 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 the meteorological mast and details of any aviation warning lighting that they will be fitted with;
 - b) The location and height of the meteorological mast identifying the position of the lights on the mast, the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used. These details shall show the meteorological mast shall be fitted with a minimum intensity 25 candela omni directional flashing red light or equivalent infrared light aviation lighting at the highest practicable point of the structure.
 - c) Details of how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

Thereafter, the approved infrared light aviation lighting and associated measures shall be installed and operated in strict accordance with the approved layout and specifications of the aviation lighting scheme. The lighting and associated features once installed shall be retained in situ in an effective operating condition for the lifetime of the development (e.g. 3 years from the date of this consent), unless otherwise agreed in writing by the Planning Authority.

- 5) That the developer shall notify UK DVOF & Powerlines at the Defence Geographic Centre with the following information prior to development commencing:
- a. Precise location of development.
 - b. Date of commencement of construction.
 - c. Date of completion of construction.
 - d. The height above ground level of the tallest structure.
 - e. The maximum extension height of any construction equipment.
 - f. Details of any aviation warning lighting fitted to the structure(s)

This information can be sent by e-mail to UK DVOF & Powerlines at icgdgc-prodaisafdb@mod.uk, or posted to:

D-UKDVOF & Power Lines
Air Information Centre
Defence Geographic Centre
DGIA
Elmwood Avenue
Feltham
Middlesex
TW13 7AH

Reasons:

- 1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- 2) The use of the land is of a temporary nature and is only acceptable as a temporary expedient.
- 3) In the interests of reducing bird strike and collision.
- 4) In the interest of maintaining aviation safety.
- 5) To ensure that the Ministry of Defence (MoD) is aware of the details of the development, in the interests of aviation safety.

Advisory Notes:

- **NATS Safeguarding:** The consultation response provided applies specifically to the consultation request issued and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted. If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.
- **Ministry of Defence (MoD):** The MoD emphasise that the advice provided in their consultation response is in response to the information detailed in the developer's document titled 'Supporting Information' dated 14/03/22. Any variations of the parameters (which include the location, dimensions, form, ad finishing materials) detailed may significantly alter how the development relates to MOD safeguarding requirements and cause adverse impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered materials or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.
- **Glasgow Prestwick Airport:** The IFP Assessment undertaken did not assess the turbines which is a separate application (Scottish Ministers reference: ECU00002181). On this basis, the outcome of the IFP Assessment has no bearing on the separate Section 36 application for a windfarm development at Knockcronal.

List of Determined Plans:

- Figure 1 - Mast Location Plan
- Figure 2 – Mast Layout Plan
- Figure 3 – Met Mast Elevation Drawing
- Figure 4 – Block Plan
- Figure A – Met Mast ZTV with Viewpoints
- Figure B – Viewpoint 1: Minor Road near Craig
- Figure C – Viewpoint 2: Minor Road near Stinchar Bridge
- Figure D – Viewpoint 3: NCN7 near Palmullan Bridge
- Figure E – Viewpoint 4: Craigengower Monument (wireline)
- Figure F – Viewpoint 4: Craigengower Monument (photomontage)
- Figure G – Viewpoint 5: B741 near Largs Farm
- Supporting information (ITP Energised, Dated 14/03/22)

Reason for Decision (where approved):

The siting and design of the meteorological mast development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

Background Papers:

1. Application form, plans and submitted documentation
2. Consultation Responses
3. Representations
4. Adopted South Ayrshire Local Development Plan
5. Proposed South Ayrshire Local Development Plan
6. Supplementary Guidance: Dark Sky Lighting
7. Scottish Planning Policy (SPP)

Equalities Impact Assessment

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Mr Ross Lee, Supervisory Planner (Place Planning), 01292 616 383



REPORT BY PLACE DIRECTORATE
REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 APPLICATION UNDER SECTION 36 OF ELECTRICITY ACT 1989 (AS AMENDED) FOR CONSTRUCTION AND OPERATION OF KNOCKCRONAL WINDFARM COMPRISING 9 WIND TURBINES (WITH COMBINED GENERATING CAPACITY OF 59.4 MW), PROPOSED ENERGY STORAGE FACILITY AND ASSOCIATED INFRASTRUCTURE. REF: 21/00993/DEEM
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1. Purpose of Report

- 1.1 South Ayrshire Council was consulted by the Scottish Government on 1st December 2021, under Section 36 of the Electricity Act 1989, on an application by "Knockcronal Wind Farm Ltd" for the erection of a windfarm and associated ancillary development at Knockcronal, U4 from C1 junction near Craig via Balbeg and Dalmorton to Palmullan Bridge, 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.
- 1.3 The Planning Service currently has delegated authority to respond to these consultations, but typically chooses not to do so without first referring the matter to Regulatory Panel due to the large-scale nature of the proposals and the community interest.
- 1.4 The applicant has agreed to a time extension to 30th June 2022 for the Council to make its response. It is imperative that the Council responds within the agreed time period, or its statutory rights would be affected.

- 1.5 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.
- 1.6 Under the Electricity Act 1989 schedule 8, part 2, paragraph (3) if the Planning Authority notifies the Scottish Ministers outwith the time limit that has been agreed (i.e., 30th June 2022 in this case), then the Scottish Ministers may disregard the Council's notification to object.
- 1.7 On the basis that a Planning Authority were not to respond by the agreed date then there is no mandatory requirement for a public inquiry to be held.

2. Recommendation

It is recommended that the Regulatory Panel:

- **Submits this report to the Scottish Government as an objection to the proposed wind farm.**
- **Approves delegated authority to the Director of Place to conclude planning conditions with the Energy Consents Unit should the Scottish Government be minded to grant consent.**

3. Background & Procedural Matters

- 3.1 On 1st December 2021 Knockcronal Wind Farm Limited 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 comprising of 9 turbines with an anticipated height at tip of 200 metres for 6 of the turbines and 180 metres for the other 3 remaining turbines. 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. In this case, the combined energy capacity of the wind farm is 59.4 MW.
- 3.2 The Scottish Government formally consulted the Council on the proposed development in December 2021, with an original deadline for response on the application of 1st April 2022. Given the considerations and assessment required in association with this consultation, the Council made a request for the time period to respond to be extended to 30th June 2022 and this was granted.
- 3.3 The application is supported with an Environmental Impact Assessment (EIA) Report. Further details of the EIA Report are set out in proceeding sub-sections below.
- 3.4 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 planning authority, 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 consultation, 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).
- 3.5 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.

- 3.6 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 that would require to be considered on its own merits in due course.

4. Development Proposal

4.1 Proposal

4.1.1 Approval under Section 36 of Electricity Act 1989 and deemed planning permission are sought for a windfarm development. Permission is sought for a period of 30 years of the operational phase of the windfarm. The proposed development comprises of the following principal components:

- 9 turbines in total comprising of 6 turbines up to 200 metre blade tip height (allocated as; T1, T2, T3, T7, T8 and T9) and 3 turbines up to 180 metre blade tip height (allocated as; T4, T5 and T6). Turbine foundations will be formed as part of each of the 9 turbines. The turbines themselves are to be concentrated predominantly on the southern portion of the application site.
- Site access and access tracks will include the use of existing tracks, the upgrade of existing tracks and the formation of new tracks and accesses. There are two access options to the proposed wind farm site from the west (access point located on the U27 known locally as “Deil’s Elbow”) and north (access point is located on the U31) and only one of these will be selected prior to construction. The new stretches of access track within the site boundary will be between approximately 5.7km and 6.2km in length depending on whether the western and northern accesses route option is progressed. Details of the proposed site access arrangements are set out in more detail further in this sub-section below.
- Watercourse crossings which will include the use of existing crossings, the upgrade (either replacing or extending) of existing crossings and the formation of new crossings. Up to 9 new watercourse crossings will be developed to support the development. 3 of these new watercourse crossings are required for the main development area, 6 new watercourse crossings would be required for the extension of the existing western forestry track and five new watercourse crossings would be required for the extension of the existing northern forestry track (depending on which access route is selected). Whilst the final designs of these may be subject to change, most will be either single span, half-moon arch or box culverts of varying scales and dimensions depending on the watercourse to which they relate. These are all to be designed as to maintain hydraulic connectivity and allow the free passage of fish and other wildlife beneath and those associated with the site access tracks will be capable of vehicle use.
- Crane hardstandings measuring approximately 195 metres long by 65 metres wide. These will comprise of crushed stone hardstanding, and these would remain in place for the lifetime of the proposed development to facilitate maintenance works.
- On-site substation and energy storage facility/compound to be situated close to the south-east corner of the application site. The applicant advises that the design of these are flexible and that they would be willing to use materials and cladding which match the local surroundings.

- Underground cabling which will feed and transport the electrical power produced by the individual turbines to the on-site substation and separate energy storage facility.
 - Borrow pits/borrow pit search areas (5 in total) as a source of rock to be used in the construction of the tracks, hardstandings and foundations. The site layout plan shows that one is proposed along each of the two access routes with the remainder dispersed through the main turbine development site area.
 - One permanent meteorological mast at 130 metres in height to measure wind speeds for the full operational life of the development. This is to be situated on the extreme southern boundary of the application site. For the avoidance of any doubt, this is separate to application 22/00242/APP which seeks planning permission for a temporary meteorological mast on the site in advance of this windfarm development.
 - One temporary construction compound area. This will comprise of an area of approximately 50 metres long by 100 metres wide and situated centrally within the application site. The applicant sets out the reason for its location is to minimise effects on sensitive habitats and deep peat and also for practical purposes. The compound will house a temporary portable cabin to be used as the main site office and a portable cabin alongside other ancillary features. On completion of construction, all structures are to be removed and the land reinstated to previous condition thereafter.
 - A gatehouse compound with the site layout at both of the potential proposed site accesses on the northern and western sides respectively. This will control access and traffic to the site, and it is the intention that only one will be delivered in line with the final site access route chosen.
- 4.1.2 The installed capacity of the wind farm is approximately 59MW. The applicant predicts that the wind farm will generate power 138 GWh per year which would generate sufficient electricity to supply the equivalent of 40,500 homes per annum.
- 4.1.3 A micro-siting allowance of up to 50 metres in all directions is being sought in respect of each turbine and its associated infrastructure in order to be able to address localised environmental sensitivities, unexpected ground conditions or technical issues. The EIA assesses the extent of the micro-siting allowance and demonstrates that this can be accommodated without any significant effect.
- 4.1.4 Further to the summary above, site access will be achieved from the B7023 via the A77 and connecting roads. As noted above, the applicant proposes to utilise existing forestry access tracks to reach the main body of the proposed development. Two specific forestry tracks have been identified and assessed on the western and northern side of the site respectively (termed as 'Western Access' and 'Northern Access' in the EIA Report), however only one of these routes will be utilised to support the development. Both of these have been included in the application site and red site boundary for the development with it being the applicant's intention to decide on the specific route once consent is obtained but prior to construction. The 'Western Access' would be taken directly from Hill Road to the south of the village of Cloyntie, using an upgraded forestry access junction, and the 'Northern Access' would comprise an upgraded forestry access junction which will be taken from an unclassified road approximately 2km to the south-west of Straiton. As part of this, it is worth noting that although both routes would be coming from different directions to the site, they would enter the main turbine development site at roughly the same location (near Sheepfold). Thereafter, either option would use an internal site track which feeds of either access with this connecting it to the remainder of the development on site.

- 4.1.5 The extent of woodland within the proposed development boundary is limited to parts of the two access routes being considered for the site. The woodland itself consists of a mixture of commercial forests and broadleaf woodlands of various ages. There would be a marginal loss of woodland area from utilising either of the proposed access routes and the extent of woodland loss would ultimately be dependent on the section of the preferred route and the final route alignment. The applicant has committed to providing compensatory planting as a means to mitigate any woodland loss.
- 4.1.6 The construction phase is expected to require approximately 18 months to complete, and the decommissioning phase is expected to require 12 months to complete following the end lifespan of the development. It is proposed that the hours of construction work be Monday to Friday 07:00 to 10:00 and 07:00 to 13:00 on Saturday and no working on Sunday.

4.2 Application Site

- 4.2.1 The site is located approximately 4.8km south of Straiton, 11.3km south-west of Dalmellington and 17.4km east of Girvan in South Ayrshire. The site comprises a main turbine development area of approximately 540 hectares of land consisting of upland moorland in the south and west of the site and farmland in the northeast with it also including the land associated with the two potential accesses as previously set out. The site gradually rises from 120 metres Above Ordnance Datum (AOD) in the north-east of the site to 315 metres AOD at Knockbuckle in the south-east of the site. A number of watercourses traverse the turbine development area including the Shiel Burn in the centre of the turbine development area, and the Palmullan Burn in the west, which flow into the Water of Girvan to the north of the site. Small areas of Ancient Woodland are present in the far northern section of the site with the remaining sections of undesignated woodland contained to the locations nearest the proposed accesses. Two residential properties lie within the proposed turbine development area, Linfairn, and Glenlinn Cottage. It is relevant to note that the application site, including all turbines and road access options are situated within the administrative boundary of South Ayrshire Council.
- 4.2.2 The application site is mostly situated within the 'Foothills with Forest and Wind Farms' Landscape Character Type (LCT), specifically subtype 17C as identified in the 2018 South Ayrshire Landscape Wind Capacity Study. A small part of the northern part of the application site is within the 'Intimate Pastoral Valley', LCT 13 although no turbines are proposed in this area. The first part of one of the access tracks also crosses the 'Middle Dale', which is LCT 12.
- 4.2.3 The surrounding land comprises open moorland to the east and north-east, as well as farmland with some scattered individual properties, with National Forest Estate commercial forest plantation to the north-west, west, south, and southeast. The Galloway Dark Sky Park buffer zone, Galloway Forest Park and the Galloway and Southern Ayrshire Biosphere are adjacent to the turbine development area boundary to the west, south and south-east, with the Dark Sky Park core area approximately 2.7km south of the nearest proposed wind turbine. To the south-east of the turbine development area lies the Galloway Forest Park International Bird Area with the Merrick Wild Land Area (WLA) approximately 5km from the site boundary in the same direction. Knockgardner Site of Special Scientific Interest (SSSI), designated for geological fossiliferous exposure, lies approximately 2.7 km northwest of the site. There are no listed buildings or designated built heritage features within the application site boundary.

4.3 Surrounding Windfarms & Windfarm Proposals:

- 4.3.1 There has been considerable interest in the locality for windfarm development with the planning history of the site and surrounding area and this is captured in more detail in Section 7 (Planning History) of this Panel report.
- 4.3.2 In the first instance, it is relevant to note that there are no operational and consented wind farm developments, within 5km of the proposed development site. There are however a number of proposed, consented, and operational wind farm developments within 10km of the proposed development site. Dersalloch Windfarm is the closest operational windfarm and is situated to the northeast of the application site approximately 8km in distance. This windfarm comprises of 23 turbines with a blade tip height up to 125 metres and a generating capacity of 69MW and is situated at land at Dersalloch Hill.
- 4.3.3 Two other windfarms are proposed in relatively close proximity to the application site, and this includes the developments associated with Carrick and Craiginmoddie Windfarms respectively. Carrick Windfarm is a current Section 36 application with South Ayrshire Council considering the proposed development as a consultee (Council Reference: 22/00094/DEEM). This application seeks permission to erect and operate 13 wind turbines (tip height of up to 200m), energy storage facility and associated infrastructure. This development is particularly relevant noting the application site directly neighbours the Knockcronal application site along the full southern boundary and part of the eastern and western boundary. Craiginmoddie Windfarm seeks permission for the erection of 14 turbines with battery storage and associated infrastructure and is situated to the west of the Knockcronal application site, beyond Carrick. South Ayrshire Council have recently finalised their position as a consultee to this Section 36 application and in February 2022 issued their objection to the Scottish Government Energy Consents unit (Council Reference: 21/00069/DEEM).
- 4.3.4 In addition to this, there are a number of other consented and operational windfarms in the wider area, and this includes Hadyard Hill Windfarm and Clauchrie Windfarm. Hadyard Hill Windfarm is operational and is situated a considerable distance to the southwest of this application site. This comprises of 52 turbines with blade tip heights between 100m and 110m. There has been a previous Section 36 application for an extension to Hadyard Hill comprising 22 turbines with a blade tip height of 126.5m. The Council objected to the proposal primarily on landscape grounds however the application was withdrawn prior to the commencement of a Public Inquiry. In terms of Clauchrie Windfarm, this is situated to the extreme southwest of the Knockcronal application site beyond the site for Carrick Windfarm. An application under S36 of the Electricity Act 1989 (as amended) for the construction and operation of Clauchrie Windfarm comprising 18 wind turbines (generating capacity of around 100MW) and proposed energy storage facility (storage capacity of up to 25MW) and associated infrastructure was submitted to the ECU in 2020. South Ayrshire Council objected to this application (Council Reference: 20/00055/DEEM) however the application was subsequent granted consent following a Public Inquiry.

5. Consultations

- 5.1 Consultations on this application are undertaken by the Scottish Government. The following consultation responses received by the Scottish Government Energy Consents Unit (ECU) are for noting only.
- 5.2 Comments arising from consultation within South Ayrshire Council (department services) are incorporated into the Assessment section of this report and will be forwarded to the ECU as part of the final recommendation.
- 5.3 Statutory Consultees
- 5.3.1 NatureScot (22/04/22) – **Objection**. The consultation response to the ECU is detailed however the grounds of the objection can be summarised through the developments adverse and significant impact on the Merrick Wild Land Area including the effect of night-time lighting for the turbines, required in connection with aviation safety.
- 5.3.2 Historic Environment Scotland (HES) (02/02/22) - **No objections**. HES agree with the conclusion of the EIA Report that none of the impacts on historic assets within their remit (e.g., nationally important heritage designations) are likely to be significant.
- 5.3.3 Scottish Water (11/02/22) – **No objections**. Scottish Water in their response includes a number of advisory points and other legislative references all of which relate to asset impact assessment, drinking water protected areas and surface water.
- 5.3.4 SEPA (24/03/22) – **No objections subject to conditions**. The initial consultation response from SEPA (dated 11/02/22) objected to the proposals as they had insufficient information to allow them to determine the extent and nature of potential impacts for factors within their remit and that they will need further information before being able to review their position. Their concerns related to impacts upon the water environment and proposals for water crossings and to culvert minor drains in the vicinity of wind turbines. Further information was submitted by the applicant and an addendum consultation response from SEPA was received in March 2022 which confirmed the withdrawal of their holding objection. In this response they reference the further information provided regarding the minor drains in the vicinity of wind turbines 1, 2, 6 and 7 as described in the EIA Report, and at the energy storage facility. Based on the information provided, SEPA confirmed that they accept that all of the drains are man-made features of no or little ecological value and are therefore content with the proposal to either block or reroute the channels. To ensure this occurs rather than culverting they requested a condition is applied which require the ditches in the vicinity of wind turbines 1, 2, 6 and 7 and at the energy storage facility to be sensitively rerouted or blocked prior to work commencing on the related infrastructure. This condition would require to be attached in addition to earlier conditions set out in the initial response.

5.4 Internal Scottish Government Advisers

- 5.4.1 Scottish Forestry (09/02/22) – **No objections subject to conditions.** Scottish Forestry acknowledge that whilst this windfarm development is to be situated on open ground, felling will be required as part of the development to allow road widening, swept path clearances and also laydown areas and compounds for the site access. Although Scottish Forestry note this to be a modest area overall (regardless of the final access route selected), they have confirmed that the applicant will require to provide compensatory planting to comply with Scottish Government policy on the Control of Woodland Removal (February 2009). As part of this, Scottish Forestry outline an expectation to be involved in the woodland creation plans and the compensatory planting programme should the development progress.
- 5.4.2 Transport Scotland (11/02/22) – **No objections subject to conditions.** Transport Scotland confirm that they are satisfied with the relevant chapters of the EIA and more broadly development in terms of environmental impacts on the trunk road network. As part of their consultation response, they have requested conditions relating to the prior approval of the proposed route for abnormal loads on the trunk road network, the prior approval of a Construction Traffic Management Plan and the need for any additional signing or temporary traffic control measures to be undertaken by a recognised QA traffic management consultant and be approved by Transport Scotland before it is put in place.
- 5.4.3 Crown Estate Scotland (21/02/22) – **No objections.** They advise that the assets of Crown Estate Scotland are not affected by this development.
- 5.4.4 Ironside Farrar (Peat Slide Risk Assessment) (12/04/22) – **No objections subject to further information.** The Energy Consents Unit commissioned Ironside Farrar Ltd to technically assess the Peat Landslide Hazard and Risk Assessment(s) (PLHRAs) submitted, with their response termed as a 'Stage 1 Checking Report'. The checking report considers whether or not adequate and appropriate field survey, peat sampling and analytical methods have been employed to provide a sound basis for assessing peat stability and the risk from peat landslides within the development envelope. The checking report provides a summary of findings and recommendations and the Energy Consents Unit issue a copy to the developer in accordance with the requirements of the Best Practice Guide (Scottish Government, 2017). The conclusion of their response is that whilst the peat assessment is sound, there are some key elements that are considered to be insufficiently robust to support the conclusions made and minor revisions/clarifications are required. Ironside Farrar firstly advise that further information in relation to landslide susceptibility mapping is needed with this suggesting that there are other areas of moderate likelihood that intersect or lie immediately adjacent to infrastructure. In addition to this, they suggest clarification should be sought as to why the marginally unstable areas highlighted in the FoS analysis that intersects with the proposed tracks at the northern end of the development has not been included in the consequence and risk assessment.

5.5 Non-Statutory Consultees

- 5.5.1 National Air Traffic Services (NATS) (08/02/22) – **Objection**. The response includes a report which covers their technical assessment of the proposed development impacts on radar, communication and navigational equipment and features. Whilst no impact is anticipated for NATS navigational aids or their radio communication equipment, NATS Safeguarding as part of the ‘En-route RADAR Technical Assessment’ have determined that the terrain screening available will not adequately attenuate the signal on the Lowther RADAR and therefore this development is likely to cause false primary plots to be generated. They also set out that a reduction in the RADAR’s probability of detection, for real aircraft is also anticipated. NATS Safeguarding conclude that the proposed development has been examined by technical and operational safeguarding teams and a technical impact is anticipated and this has been deemed to be unacceptable.
- 5.5.2 Glasgow Prestwick Airport (GPA) (09/02/22) – **Objection**. GPA set out concerns in relation to a number of aviation safety matters which centre around potential degradative effects of the wind turbines to affect the airports Communications, Navigation and Surveillance (CNS) equipment(s) both individually as a development but also as part of a cumulative effect with other similar developments. GPA issued a holding objection, advising that they will need further assessments to establish if these concerns can be appropriately mitigated.
- 5.5.3 Defence Infrastructure Organisation (Ministry of Defence) (17/12/21) – **No objections subject to conditions**. This consultee advises that the development site occupies Tactical Training Area 20T (TTA 20T) therefore in the interests of air safety, the Ministry of Defence (MoD) would request that the development be fitted with MoD accredited aviation safety lighting in accordance with the Civil Aviation Authority (CAA), Air Navigation Order 2016.
- 5.5.4 British Telecom (BT) (09/12/21) – **No objections**. BT have advised that they have studied this windfarm development with respect to EMC and related problems to BT point-to-point microwave radio links and the conclusion set out is that the development should not cause interference to BT’s current and presently planned radio network.
- 5.5.5 Royal Society for Protection of Birds (RSPB) (18/02/22) – **No objections**.
- 5.5.6 Ayrshire Rivers Trust (ART) (31/01/22) – **No objections subject to conditions**. This consultation response sets out a number of requirements including providing ART with final details/plans of water crossings, a monitoring programme for construction of water courses (to protect water environment from silt etc), a request to undertake macroinvertebrate surveys to complement existing surveys undertaken and a need to include additional legislative guidance into the EIA to ensure it is adhered to. Whilst they do not object, ART in their consultation response to the ECU also set out concerns with the Freshwater pearl mussel habitat survey, with species being scoped out with minimal assessment and no provision for pre-construction surveys despite the EIA appendices identifying records of such species in the upper reaches of the Water of Girvan. ART offer assistance to address the proposed baseline survey methodology and site locations for fish and freshwater pearl mussels to the ECU.
- 5.5.7 British Horse Society (13/12/21) – **No objections**. The response includes signposting and links to a number of studies and assessments undertaken which this consultee considers will assist to inform the development in terms of relevant equestrian matters.

- 5.5.8 The Coal Authority (TCA) (08/11/21) – **No objections**. TCA confirm that as the site falls outside the coalfield, they have no specific comments/observations to this application. Furthermore, TCA advise that it will not be necessary to consult with them on any future stages of the development.
- 5.5.9 Mountaineering Scotland (11/02/22) – **No objections**.
- 5.5.10 Visit Scotland (17/02/22) – **No objections**. VisitScotland provide advice regarding tourism considerations and the impact that any proliferation of windfarm developments may have on the local tourism industry, and therefore the local economy. VisitScotland strongly agree with the advice of the Scottish Government in that the importance of tourism impact statements should not be diminished, and that, for each site considered, an independent tourism impact assessment should be carried out. This assessment should be geographically sensitive and should consider the potential impact on any tourism offerings in the vicinity. Such an assessment was not submitted to the ECU as part of the application.
- 5.5.11 Scottish Rights of Way Society (ScotWays) (23/02/22) – **Holding objection**. This consultee identifies a number of paths which run through the application site and includes plans as part of their consultation response to the ECU which depict where and how these relate to the site subject of this proposed development. ScotWays outlined that all public recreational routes need to be protected when siting the internal tracks and also when deciding the access route into the proposed development site. While ScotWays consider that the Council's 'Core Path Management Plan' may address mitigation for core paths, they advise that this does not cover 'all public recreational routes' and does not directly detail and address the rights of way identified in their response. ScotWays advise that they have been unable to identify anything within the documentation that shows the mapped line of either right of way 'SKC7' or the 'Scottish Hill Track' route noted above and how these routes will be affected by this proposal. As it is therefore unclear whether the applicant has fully considered public recreational access, they state that their response should therefore be regarded as a holding objection pending the submission of further information to satisfy the concerns raised.

5.6 Community Councils

- 5.6.1 Barrhill Community Council (11/02/22) – **Objection**. Barrhill Community Council in their consultation response to the ECU set out through a number of sub-sections, the areas which form their grounds for objecting to the proposed development. These can be summarised as; a substantial visual impact and effect on surrounding landscape, cumulative effect of the development with other similar developments, encroachment on settlements, concerns for the implications of employment and tourism in the locality, impacts on the Galloway Forest Dark Sky Park and the lack of community engagement and involvement in the project to date.
- 5.6.2 Dailly Community Council (14/02/22) – **Objection**. Dailly Community Council provided a detailed consultation response to the ECU which is formatted in a series of chapters which convey their grounds of their objection. The reasons for their objection include concerns with regards to landscape and visual impacts, access implications, hydrology and water issues, leading edge erosion and associated impacts, turbine noise, socio-economic and tourism impacts and issues around decommissioning and recycling. More broadly, they also object on the basis that they consider there to be no established 'need' for the development.

6. Applicant's Supporting Information

- 6.1 The application submission to Scottish Ministers is accompanied by a range of supporting documentation. This includes an Environmental Impact Assessment Report (EIA Report), a Non-Technical Summary, a Planning Statement, a Proposal of Application Notice Report alongside a suite of accompanying plans, drawings, visualisations, and photomontages. The EIA Report produced in this case considers the following principal topics: landscape and visual, ecology, ornithology, noise and vibration, cultural heritage, hydrology, hydrogeology and geology, traffic, and transport, socio-economics, tourism and recreation, aviation and radar, telecommunications, shadow flicker and forestry. A number of technical appendices assessing different specific matters within these broader topic areas also supplementary the main EIA Report and chapters where relevant.

7. Planning History

- 7.1 Most notable in terms of planning history is the fact that this application site for Knockcronal Windfarm formed part of the wider Linfairn Windfarm development site which was submitted under Section 36 of the Electricity Act 1989 to the Scottish Ministers to operate a wind farm comprising 25 (reduced to 17) turbines, with a capacity of some 62.5 MW, and a blade tip height of up to 126.5m. South Ayrshire Council objected to this application (Council Reference: 13/01130/DEEM) as a consultee on the grounds of landscape, visual and cumulative impacts. The Section 36 application for Linfairn Windfarm was withdrawn by the applicant in 2018 prior to a Public Inquiry being held. This constitutes the last formal wind farm development submitted for the application site until now.
- 7.2 Immediately adjacent to the application site to the west and northwest lies Knockskae. A planning application for the erection of 11 turbines (126m tip height) at this site was refused by the Council in April 2017 (15/01216/APPM). Similar to the above, no further formal applications have been submitted for windfarm developments for the site. To the immediate south and part of the east and west of this application site is the proposed Carrick Windfarm development. As previously set out, this is a current application with South Ayrshire Council considering and assessing the proposals as a consultee to the process.
- 7.3 Beyond the above, there are other windfarms relevant which are within the general vicinity of the proposed development as alluded to in Section 4.3. This includes a mixture of operational, consented, and proposed developments including; Craiginmoddie, Clauchrie, Dersalloch and Hadyard Hill Windfarms however the planning history for each is not considered necessary to set out given the distances between these and the application site.

8. Development Plan

- 8.1 The proposed development has been submitted under the Electricity Act and the statutory requirement under Section 25 of the Planning Act (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 is a significant material consideration.
- 8.2 Members should note that the Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications. The applicable policies in MPLDP2 are not materially different to those of the existing LDP. Supplementary Guidance: Wind Energy, remains relevant, with its windfarm spatial framework having been incorporated into MPLDP2, and the SG is likely to be re-adopted in similar form under the adopted LDP2.
- 8.3 The Adopted South Ayrshire Local Development Plan Policy: Wind Energy is the primary local plan policy against which proposals for wind farm development are to be assessed. The LDP has a number of additional policies of relevance to the assessment of the planning application, which relate closely to the criteria on the wind energy policy. For ease of reference, they are listed beneath the corresponding criterion of the wind energy policy in the subsequent sections of this report.
- 8.4 Whilst the policy provides the basis for assessing wind energy developments, South Ayrshire Council adopted the Supplementary Guidance (SG) it refers to, in December 2015. That SG provides detail by which wind energy proposals can be fully assessed. It provides a spatial strategy for wind energy, in line with the requirements of Scottish Planning Policy (and in so doing identifies areas within South Ayrshire which are afforded significant national protection) and it provides guidance on how the policy of the Local Development Plan will be applied in the consideration of proposals.
- 8.5 The SG identifies that most of the current application and development site falls within a "Significant Protection Area". The SG follows the principles of Scottish Planning Policy (SPP) by stating that in such circumstances, further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design, or other mitigation. This specific matter is considered in more detail in the Assessment section of this report.

8.6 The SG covers the following issues:

- Impacts on landscape and landscape character
- Visual impacts
- Residential amenity, (noise, shadow flicker, visual impact, and traffic)
- Natural heritage including national and locally protected species and habitats
- Impacts on the historic environment and archaeology
- Aviation, defence, and broadcasting interests
- Cumulative impacts
- Environmental management
- Hydrology and the water environment
- Borrow pits
- Carbon losses
- Flooding
- Decommissioning and restoration bond obligations
- Repowering
- Extensions
- Monitoring

8.7 Each of the above sections includes a reference to the Council's policy on these issues and the matters which will be considered in the assessment of the proposals.

9. Assessment

9.1 In assessing the proposal, it is important to note that South Ayrshire Council is not the determining authority and has been asked to provide comments as a Statutory Consultee.

9.2 As previously stated, a number of comments from consultees have already been submitted directly to the Scottish Government ECU. Where consultee responses are especially important in South Ayrshire Council's assessment of the proposal, they are referred to in the following assessment, and where appropriate, have been incorporated into the recommendations made with regard to suggested comments proposed to be sent to the Scottish Government. The full text of the submissions made to the Scottish Government can be found at The Scottish Government Energy Consents Unit web page (case reference ECU00002181).

9.3 For ease of reference, the assessment section of this report corresponds with the Sections of the LDP policy Wind Energy and considering the relevant Supplementary Guidance criteria:

- a) Landscape impacts and (b) Visual impacts
- c) Communities Quality of Life and Amenity (including Residential Amenity)
- d) Natural Heritage
- e) Built & Cultural Heritage and Archaeology
- f) Aviation, Defence, Broadcasting, Cumulative impacts, and Other matters

9.4 Other policies: As stated above, a number of policies throughout the Local Development Plan are also relevant in the assessment of the proposed development. They are listed beneath the primary wind energy policy criterion.

9.5 **Criteria (a) and (b): Landscape and Visual Impact**

We 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 (through a careful choice of site, layout, and overall design;**

We will support proposals if:

- ✓ **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 asserts and tourist attractions;**

9.5.1 In considering landscape and visual matters, the expertise of Carol Anderson, Landscape Architect of Carol Anderson Landscape Associates has been commissioned. Members will recall that Carol Anderson Landscape Associates is the author of the South Ayrshire Landscape Wind Capacity Study, the original version of which was used to inform South Ayrshire Council's Supplementary Guidance: Wind Energy.

Additional LDP policies:

LDP Policy Sustainable Development
LDP Policy Landscape Quality

9.5.2 The proposed development comprises 9 turbines, battery storage and other ancillary infrastructure lying to the south-west of Straiton. Six of the turbines would be 200m to blade tip with the three most easterly turbines 180m to blade tip. Lighting affixed to the turbines is required albeit the initial lighting scheme as proposed has been subject to change following a variation agreement by the Civil Aviation Authority (CAA) received by the applicant in May 2022. The Wind Farm Aviation Lighting and Mitigation Report (Technical Appendix 14.1) estimates that visible aviation lighting would operate at 10% luminous intensity (200 candela) for 98% of the time. Technical Appendix 14.1 concludes that further mitigation in the form of a radar activated system could be installed to limit the duration of lighting if allowed by the regulatory process.

9.5.3 There are two access options to the proposed wind farm site from the north and from the west and only one of these will be selected prior to construction. Both routes will involve upgrading of existing tracks and construction of new tracks and some upgrading is also likely to be needed to the public road access. Where the access route comprises narrow minor roads, this is likely to require construction of passing places and widening/straightening, which will necessitate removal of roadside vegetation, to accommodate turbine delivery vehicles.

Policy and Guidance in relation to Landscape and Visual Matters

9.5.4 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 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. In particular, this proposal on the northern and north-eastern sits partly within and also lies in 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. The proximity of the eastern part of the proposal to the Rugged Uplands with Lochs and Forests LCT (which has dramatic and diverse scenery, a little modified character and high recreational value) additionally increases sensitivity.

Effects on Landscape Character

9.5.5 While effects on the host landscape of the Foothills with Forest and Wind Farms LCT would be direct and significant, the larger scale and generally simple landform and landcover, the presence of other wind farms and the lower value associated with this landscape reduces sensitivity. The location and size of turbines within this proposal would, however, result in more severe significant adverse effects arising on parts of the following sensitive adjoining LCTs, which lie in close proximity to the proposed wind farm site:

- The Intimate Pastoral Valley – upper Girvan LCT where the very large turbines of the proposal would form a dominant feature seen above the narrow upper Girvan valley between Straiton and Tairlaw. The proposal would overwhelm the small scale of this valley and significantly detract from its harmonious landcover and settlement pattern and secluded character.
- The Rugged Uplands, Lochs and Forests LCT where the proposal would be visible from north-western hill slopes and summits and within parts of the lower-lying basin between Cornish Loch and Loch Girvan Eye. The proposal would introduce views of very large turbines into a landscape which has relatively few human artefacts, diminishing the sense of wildness that can be experienced in parts of this LCT. Operational wind farms are already visible from the elevated parts of this landscape but the increased size and closer proximity of the turbines within the proposal would incur a much greater magnitude of change.

Effects on Landscape Designations and Other Valued Landscapes

South Ayrshire Local Landscape Areas/Designations

9.5.6 The LVIA considers effects on the Local Landscape Areas (LLA) which will replace the existing South Ayrshire Scenic Area landscape designation in the forthcoming Local Development Plan. The proposal does not lie in a designated landscape but would have indirect effects on designated and other valued landscapes. The effects of the proposal on the LLAs will be similar to those associated with the LCTs outlined above as there is a correlation between boundaries. Significant adverse effects would occur on the following LLAs:

- The High Carrick Hills LLA which lies in an arc approximately 3km to the south/south-east of the proposal. The limited modification of this upland area and the qualities of wildness that can be experienced within it are noted as some of the reasons for designation outlined in the Statement of Importance for this LLA. This proposal would have a significant adverse effect on these qualities where it is visible from north-western facing slopes and summits and more intermittently from lower-lying basins in the Cornish Loch to Loch Girvan Eye area. Part of the Merrick Wild Land Area lies within this LLA.
- The Water of Girvan Valley LLA which abuts the north-eastern boundary of the proposed wind farm site. This proposal would be principally 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.

Merrick Wild Land Area (WLA)

9.5.7 WLA's are the most extensive areas of high wildness in Scotland and are identified in National Planning Framework (NPF) 3 as a nationally important asset that merits strong protection. The Merrick WLA is important in comprising one of the very few remaining areas of undeveloped uplands in south Scotland mainland (3 remaining in total). It is a small WLA and one where many natural heritage and other designations and interests come together increasing its value, especially given the more modified landscapes surrounding it which feature extensive commercial forestry and wind energy development.

9.5.8 An assessment of the effects of the proposal on the Merrick WLA is contained in EIA Report Technical Appendix 6.2. The assessment methodology is based on Nature Scot's '*Assessing impacts on Wild Land Technical Guidance*' 2020 and the description of Merrick WLA (01). The assessment study area comprises the northern part of the WLA, which lies closer to the proposal and where the greatest extent of visibility is also likely to occur. The Wild Land Assessment considers 3 representative viewpoints within the study area from Cornish Hill, Loch Girvan Eye and Shalloch on Minnoch (EIA-R Viewpoints 8, 20 and 23). The Wild Land Assessment set out in the EIA Report concludes that significant effects would not arise on the Wild Land Qualities of the Merrick WLA.

- 9.5.9 Dersalloch Windfarm, located north of the WLA was built out since the WLA qualities were formed. The relevant assessment within the EIA Report considers Dersalloch as a key development in relation to the proposed wind farm as it is visible from much of the same northern area of the WLA. In their consultation response to the ECU, Nature Scot generally agree with the EIA Report in so far as accepting the role of Dersalloch on the Merrick WLA, which is read as part of the existing, clearly visible, middle-distance wind farm horizon. Notwithstanding this however, they consider that these existing operational turbines slightly reduce, but do not significantly weaken or erode the wild land qualities experienced on the northern tops, the eastern slopes of The Awful Hand, hills of the eastern range (e.g., from Hoodens Hill Ridge and Mullwharchar) or in those parts of the interior of the WLA from which they are visible. In terms of other wind farms, Nature Scot recognise that there are some to the north-east of the Merrick WLA, centred around 'Windy Standard cluster' (South Kyle is the closest (15+km and comprising 50 odd turbines) and will be most clearly visible). Notwithstanding this, they consider that whilst these are obvious human artefacts, they are largely too distant to impose noticeable upon the WLA qualities.
- 9.5.10 In assessing this part of the EIA Report, which indicates that Knockcronal and Dersalloch turbines will have a similar theoretical visibility from certain viewpoints, Nature Scot make a number of comparisons in their consultation response. This includes the fact that Knockcronal turbines are considerably closer (5.2km vs 8.9km) and taller (200m vs 125m) and in addition to this from viewpoints at Shalloch on Minnoch and Cornish Hill, the Knockcronal turbines would be read as up to three times as tall as the existing turbines at Dersalloch. Nature Scot also note that these turbines will have a considerably larger 'swept blade area' which will appear at least four times as great from these viewpoints and with this further intensifying the scale difference. In addition to all of this, Nature Scot consider that given the greater height and proximity of the Knockcronal turbines they will result in a marked amplification of the visual intrusion and influence of human artefacts and activity as currently experience on the northern summits of The Awful Hand (e.g., Shalloch on Minnoch and Cornish Hill), in the north-eastern hills (e.g., Craigmashenie) and on the summits in the eastern range of Dungeon Hills (e.g., Mullwharchar). Furthermore, from lower-lying northern interior (e.g., around Loch Girvan Eye), Nature Scot confirm they would often be the only visible turbines.
- 9.5.11 With regards to turbine lighting, Nature Scot consider that the significant effects would be intensified and exacerbated by the proposed turbine lighting which would strongly impact on how the WLA is experienced at night. Central to this is the fact that there are currently no turbines with lighting in the north-western view from the summits on The Awful Hand or from the summits of the eastern range. At present, at twilight, dusk and into the night, the existing wind farms and surrounding plantations recede into darkness. This results in a marked increase in the sense of sanctuary, remoteness, awe, and risk experienced on the hills and in the more remote, lower-lying interior of the WLA. When seen, even for a short period of time, Nature Scot consider that the turbine lights would substantially weaken the attributes and responses as they would be new, dominant, and incongruous focal points in the darkness, clearly representing contemporary, human artefacts and activity.

- 9.5.12 Nature Scot have objected to the proposal on the grounds of significant adverse effects on the Merrick WLA including WLA 01 Merrick, Qualities 1, 3 and 4. More specifically, they consider that the scale and location of the Knockcronal wind turbines would result in a distinct step change in the proximity, prominence, and visual intrusion of wind farm development upon the Merrick WLA. The perceived influence of human artefacts would significantly weaken the sense of remoteness and sense of sanctuary and would also diminish the sense of fulfilment of 'getting away from it all' which is associated with the physical challenge of walking the hills within the WLA. Secondly, they also object to the proposal due to the significant effects of turbine lighting. They highlight that as current regulations mean the proposed turbines would require night-time lighting, this would result in additional significant effects on the perception of wildness attributes at dusk and into the night and ultimately detract from the night time experience. The current night-time baseline for the Merrick WLA is very dark and as a result Nature Scot consider that there would be further and substantial weakening of the attributes and responses highlighted in WLA 01 Merrick, Qualities 1, 3 and 4.
- 9.5.13 In terms of the Council's considerations on the impact of the WLA, it is noted that the proposal would comprise much larger turbines than any operational turbines currently seen from the Merrick WLA. The turbines would lie approximately 5.2km from the northern boundary of the WLA boundary with visibility principally occurring from north-west slopes and hill summits around Shalloch on Minnoch, Craigmashenie and Cornish Hill, extending to approximately 9km from the proposed wind farm site. There would be visibility of the proposal elsewhere within the WLA (and outside the study area defined for the Wild Land Assessment) but this would be confined to small areas with the turbines seen at increasing distances thus reducing intrusion.
- 9.5.14 The proposed turbines would introduce new visibility of wind farm development into an area of rugged lower-lying moorland and the basin of Loch Girvan Eye in the north-eastern part of the WLA although this would occur intermittently where local landform screens the operational Dersalloch turbines which are already prominent in views from parts of this lower-lying area. More elevated and sustained views will be possible from higher ground including from Shalloch on Minnoch, Craigmashenie and Cornish Hill. The operational Dersalloch wind farm is the closest development seen from these northern hills within the WLA. This proposal would be significantly closer and comprise much larger turbines than the Dersalloch Windfarm in these views and would provide a marked change in the perceived degree of intrusion and encroachment on this relatively small WLA (Dersalloch Windfarm comprises 115/125m high turbines located 10.5km from Loch Girvan Eye (Viewpoint 23) while the proposal would comprise turbines between 180-200m lying 7km from this viewpoint). The Council consider that there would be a significant diminishment of the sense of remoteness, sanctuary and fulfilment, key perceptual responses associated with the WLA, experienced from the northern part of the Merrick WLA. This proposal would also contribute to significant combined adverse cumulative effects on the Merrick WLA in combination with the application-stage Clauchrie, Carrick and Craiginmoddie Windfarms.
- 9.5.15 In terms of aviation lighting impacts, the Council consider that the presence of visible aviation lighting affixed to the turbines would both introduce and prolong these significant effects and the duration of the significant effects on the perception of wildness. In turn, it is the Council's consideration that the aviation lighting associated with the development would both diminish and significant effect the WLA experience sought by those who walk in the hills before dawn and those who intentionally stay on the hills or in the remote interior after dark, and overnight to encounter the sunset and/or dark skies within the Merrick WLA.

Galloway Dark Sky Park

- 9.5.16 The proposal lies adjacent to the outer boundary of the buffer zone of the Galloway Dark Sky Park (DSP). Although none of the 10 viewpoints promoted as locations for viewing the night sky within the DSP would be affected by the proposal, more remote elevated areas within the core of the DSP would have views of illuminated turbines. The lighting assessment set out in Appendix 6.4 considers in detail night-time views from Cornish Hill which lies in the core zone of the DSP. The assessment concludes that the effects of the 'worst case' 2000 candela lighting would be significant but that the reduced intensity 200 candela lighting would not be significant (despite both scenarios being judged to have the same magnitude of change). The EIA Report lighting assessment concludes that the proposal would not impede views of the night-time and effects on the DSP overall would not be significant.
- 9.5.17 The conclusion reached is that the effects of lighting from Cornish Hill would be significant and adverse in both the 2000 candela and 200 candela scenarios. Although the Council agree with the EIA Report Lighting Assessment that the numbers of receptors experiencing the night sky in the more remote parts of the DSP are likely to be low and that the proposal would not impede views of the night sky, the Council still consider that the experience of receptors who appreciate the very dark skies in views from both the core and buffer zones (and are additionally familiar with the aims of the DSP) would be diminished by this proposal.

Effects on Views

General visibility of the proposal

- 9.5.18 The dense forest and sparsely settled nature of the land immediately adjoining the proposal to the south and west and south-east would limit visual intrusion within approximately 5km in these directions. Clear visibility within 5km of the proposal would be principally concentrated to the east and north-east across the upper Girvan valley and the small hills which contain it between Straiton and Tairlaw. There would be very limited visibility from Straiton which is the closest settlement to the proposal.
- 9.5.19 Between 5km and 10km to the south and south-east of the proposal, the turbines would be visible from the western slopes and summits of the high Carrick hills and within a small part of the interior valley and loch basin lying to the east of the ridge between Cornish Hill and Shalloch on Minnoch. There would be relatively limited visibility from the south-west within the upper Stinchar valley with the turbines likely to result in minor intrusion on views. Intermittent visibility would occur from parts of the Girvan valley north-west of Straiton with landform and woodland providing screening in places.
- 9.5.20 There would be more distant views beyond 10km of the proposal from the Maybole area and surrounding higher ground to the north-east, including from the Brown Carrick Hills. Small areas of visibility would also occur to the south-west from higher ground either side of the Stinchar valley.

9.5.21 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 EIA Figure 6.10. Beyond this distance, the Council consider that effects on views are generally unlikely to be significant. The Council consider that the most significant adverse visual effects would be likely to affect views from:

- The road between Straiton and Newton Stewart where it is aligned in the upper Girvan valley, as illustrated by the visualisation from Craig (EIA Report Viewpoint 2) 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 and distract from views to the Landmark Hill of Big Hill of Genoch which forms a focus at the head of the valley. This proposal would also be seen together with the operational Dersalloch Windfarm in views from settlement and from Core Path SA47 Bennan Walk which is aligned in this valley as illustrated by the visualisations from the RVAA and from Additional Wirelines C-F.
- Significant adverse effects would arise from Craigenpower Hill where the walk up to the Colonel Hunter Blair Monument is a popular activity (EIA Report Viewpoint 4). The size and proximity of turbines will result in them being a prominent and distracting feature seen in front of the high rounded hills that lie west of the Nick of the Balloch and south of the Stinchar valley.
- The high Carrick Hills including from the routes to, and the summits of Cornish Hill (EIA Report Viewpoint 20) and the Corbett of Shalloch on Minnoch (EIA Report Viewpoint 8). These hills are popular with walkers and this proposal would present a marked change in the size and prominence of wind turbines in views from these hills. There would also be significant adverse effects from the Loch Girvan Eye area which lies in the less frequented interior of the Merrick WLA as shown in EIA Report Viewpoint 23. The operational Dersalloch Windfarm is already prominent in these views, but this proposal would present a much more substantial intrusion as it would be located closer to these viewpoints and would comprise larger turbines. There would also be significant adverse effects on walkers using more informal routes on the Rowantree and Pinbreck group of hills which lie to the west of Nick of the Balloch and south of the upper Stinchar valley.

Effects of Visible Aviation Lighting

- 9.5.22 Consultation responses from Glasgow Prestwick Airport, the MoD and NATS have referenced that the development should be fitted with accredited aviation safety lighting in accordance with Civil Aviation Authority (CAA), Air Navigation Order 2016. This request will have impacts on the night-time visibility of the development.
- 9.5.23 In terms of the aviation lighting impacts, the Council have considered the assessments provided included the Aviation Lighting Report (Appendix 14.1) which has been prepared on behalf of the applicant by 'Wind Power Aviation Consultants Ltd' alongside Appendix 6.4 'Visual Assessment of Visual Aviation Lighting' 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 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.
- 9.5.24 Following review, the Council consider that visible aviation lighting affixed to the turbines would extend the duration of significant effects in close-by and more remote elevated views. The lighting assessment set out in EIA Report Appendix 6.4 concludes that night-time effects would be significant for representative Viewpoint 2 at Craig in the upper Girvan valley (both 2000 and 200 candela scenarios) and Figure 6.22e illustrates the likely nature of these effects. The lighting assessment also concludes a significant adverse effect on night-time views from Cornish Hill (Viewpoint 20) for the 2000 candela scenario. The Council agree that night-time effects on the upper Girvan valley would be significant and adverse and that the effects would be significant and adverse for both the 2000 and 200 candela scenarios from Cornish Hill. It is relevant to note that the applicant has provided an update to the Council in mid May 2022 to advise that the CAA have approved and endorsed a reduced lighting scheme from the one original proposed. More specifically, the amended lighting scheme would mean that only four of the nine turbines would require nacelle lights with no requirement for tower lights and that a reduction of nacelle intensity from 2000 to 200 candela would occur where the horizontal meteorological visibility in all directions from every turbine in the group is more than 5km. Whilst the Council acknowledges that the overall number of turbines required to be lit for some forms of lighting has reduced and intensity levels can also drop in certain circumstances, the aviation lighting that remains would also still be able to be seen from all of the notable and key viewpoints as set out and as such it is the Council's position that the variation lighting scheme does not materially affect the position in planning terms, with the concerns as set out still relevant.

9.5.25 The applicant proposes to install an Aircraft Detection Lighting System (ADLS) and this mitigation is set out in the relevant technical sub-section of the EIA. Such a system would activate the aviation warning lighting only when an aircraft is within the vicinity of the wind farm, which is likely to be a rare occurrence. When no aircraft are present, the lighting would be switched off. With such mitigation in place, the effects on the WLA and also on the Galloway Dark Sky Park (the proposal lies within the buffer zone) would not be significant. If it is not possible to install ADLS the effects of visible aviation lighting would be significant and adverse and would extend the adverse effects on the Merrick Wild Land Area, Dark Sky Park, and the Local Landscape Areas into the darker hours. As noted, Nature Scot have objected in terms of the effects of aviation lighting on the WLA. Aviation lighting would also extend the impacts on visual receptors in the Upper Girvan Valley and the Upper Stinchar Valley and for the relatively few people walking or camping in the high Carrick Hills. With regards to the proposed mitigation set out in the reports and assessments provided as part of the EIA Report, it is unclear at this time whether an ADLS can be feasibly considered as tangible mitigation noting its dependence and reliance on other external factors in order to be reactive and respondent (including the need for all aircrafts interacting with the development to have pre-fitted transponders) alongside the fact that current aviation policy and law do not allow for general legal implementation of ADLS. In light of the current uncertainty in relation to the mitigation measures which could potentially be utilised in relation to lighting, the Council therefore requires to adopt a precautionary approach on this and has considered the impact of the aviation lighting as proposed without applying significant weight to the ADLS as a form of directly implementable mitigation that could be deployed at this time offset the significant adverse visual impacts of the lighting associated with the development. This is summarised further in the conclusion of this section below.

Cumulative Landscape and Visual Effects with Other Consented and Proposed/Application Stage Wind Farms

9.5.26 Cumulative effects with operational wind farms are considered in the description of landscape and visual effects set out above. No consented wind farms would likely result in significant adverse cumulative effects with this proposal because of their distance. However, there are many wind farm developments at application stage lying close to this proposal with the Carrick Windfarm abutting this proposal and both schemes appearing as a single larger wind farm development. Significant adverse cumulative effects with application-stage wind farms would be likely to occur on:

- The character of the Rugged Uplands, Lochs and Forest LCT and the High Carrick Hills LLA where this proposal would be seen together with the application-stage Craiginmoddie, Carrick and Clauchrie Windfarm proposals.
- The character of the Intimate Pastoral Valley LCT of the upper Girvan where this proposal would be seen together with the proposed Carrick Windfarm.
- The Merrick WLA where this proposal would be seen simultaneously and sequentially with the Carrick, Craiginmoddie and Clauchrie Windfarms and together would significantly diminish the sense of wildness.
- Popular walking routes in the high Carrick Hills (including the northern section of the Awful Hand ridge), from Craigengower Hill near Straiton as well as from more informal walking routes around the Rowantree and Pinbreck Hills which lie on the southern edge of the Stinchar valley. This proposal would tend to be seen simultaneously with the Craiginmoddie and Carrick Windfarm proposals in these views.

- Views of the grouping of this proposal/Carrick and Craiginmoddie Windfarms seen sequentially with the Clauchrie Windfarm proposal from the Rowantree/Pinbreck hill routes and from the Awful Hand Ridge.
- Views from the minor road between Straiton and Newton Stewart where this proposal would be seen simultaneously with the Carrick Windfarm between Straiton and Stinchar Bridge and sequentially with the Clauchrie Windfarm further south on this road.

9.5.27 The combined effect of lighting proposed in all these applications would extend the duration of significant adverse effects on character and views in the above areas and particularly within the WLA and DSP where dark skies are particularly evident. Combined cumulative night-time views from settlement and roads within the upper Girvan valley (where this proposal would be seen with the Carrick turbines) would also be significant and adverse (not shown in the night-time visualisations for Viewpoint 2). The cumulative night-time visualisation for Viewpoint 20 at Cornish Hill illustrates the combined effect of lighting on this proposal and the application-stage Craiginmoddie and Carrick Windfarms (EIA Report Figure 6.40l and 6.40m).

Conclusions on Landscape and Visual Amenity Appraisal

9.5.28 This proposal would be located in the Foothills with Forest and Wind Farms Landscape Character Type (LCT), a sparsely settled landscape with a simple landform and landcover and a generally large scale, characteristics which can reduce susceptibility to large wind turbines. This LCT already accommodates the operational Assel Valley, Tralorg and Hadyard Hill Windfarms. While the Foothills with Forest and Wind Farms LCT has some key characteristics which can relate to wind farm development, it comprises a relatively narrow upland band lying close to the Stinchar and Girvan valleys and the high Carrick hills which are more sensitive to this form of development.

9.5.29 The most significant and adverse landscape and visual effects of this proposal would occur on the following:

- **The character of the Rugged Uplands with Lochs and the Intimate Pastoral Valley LCTs.**
- **The special qualities and character of the High Carrick Hills and the Water of Girvan Valley Local Landscape Areas which are contiguous with the above LCTs.**
- **The northern part of the Merrick Wild Land Area where this proposal would lie much closer, and comprise substantially larger and more prominent turbines, than the many operational wind farms located in South Ayrshire, Dumfries and Galloway and East Ayrshire seen more distantly from the WLA. The sense of remoteness, sanctuary and fulfilment associated with this part of the WLA would be diminished.**
- **Views from roads and footpaths within the upper Girvan valley between Straiton and Tairlaw, where this proposal would form a dominant and highly feature.**

- **Views from the popular ridges and summits of the high Carrick Hills, including from the Corbett of Shalloch on Minnoch and Cornish Hill and also from Craigengower Hill near Straiton. Views from more informal unpromoted walking routes around Rowantree and Pinbreck Hills would also be significantly affected.**

9.5.30 **Beyond this, lighting of turbines would extend the duration of significant adverse effects on views from the upper Girvan valley and from more elevated areas within the high Carrick Hills. Effects on the sense of wildness experienced within the Merrick WLA would be significantly affected for those who remain in the hills overnight. Significant cumulative landscape and visual effects would be associated with the combination of this proposal with the application-stage Clauchrie, Craiginmoddie and Carrick Windfarms.**

9.5.31 **The Council objects to this development proposal on the basis of landscape and visual grounds. It is not considered that the significant adverse landscape and visual effects of this proposal could be mitigated due to its inappropriate location. Notwithstanding this, it is considered that significant reduction in night-time effects could potentially be achieved through the installation of an Aviation Detection Lighting System (ADLS) which would limit the duration of visible lighting, however as set out above, it is unclear at this time the feasibility of ADLS as mitigation noting the current external and technical uncertainty surrounding it. In light of the current uncertainty in relation to lighting, the Council objects to the proposed development by reason that the applicant has not demonstrated that aviation lighting would not introduce intrusive, eye catching and prominent lights into an area important for its dark skies.**

9.5.32 **Consequently, it is considered that the proposed development is not in accordance with LDP Policy Wind Energy Criterion a) and Criterion b) and conflicts with LDP Policy Sustainable Development and LDP Policy Landscape Quality. The proposal is also not in accordance with the Local Development Plan Supplementary Guidance for Wind Energy criterion A and B.**

Effects on Tourism Attractions and Recreational Assets

9.5.33 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 the Local Development Plan.

9.5.34 Assets in Ayrshire and surrounding areas particularly sensitive to inappropriate development include areas designated for their scenic or recreational potential, including the Merrick Wild Land Area, 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 Nature sites. The application site is located within the Transition Zone of the Galloway and Southern Ayrshire Biosphere and as previously set out is adjacent to and in extremely close proximity to the boundary of both the Galloway Forest Park and Galloway Dark Sky Park Buffer Zone. Whilst the application site is outwith the Merrick Wild Land Area boundary, as described above, the proposal will have an impact on the qualities of the Wild Land Area.

9.5.35 The landscape and visual impacts of the proposal are the primary considerations with regard to the potential impacts on tourism and recreation for this particular application. Any significant adverse visual impacts would be contrary to the Local Development Plan objective to protect such assets from inappropriate development. As previously set out, it is noted that NatureScot objects to the application due to its significant adverse effects on the sense of remoteness and sense of sanctuary of the Merrick Wild Land Area and on the 'perception,' 'qualities' and 'experience' of wildness at dusk and into night. As noted in the assessment of the proposal under Landscape and Visual Impact above, there are adverse effects on the Galloway Dark Sky Park, High Carrick Hills Local Landscape Area, and the Water of Girvan Valley Local Landscape Area alongside a number of important views and viewpoints which form part of the tourism and recreational assets of the area. This includes views from roads and footpaths within the upper Girvan valley between Straiton and Tairlaw (where this proposal would be dominant and introduce an overwhelming and distracting feature in terms of scale) and views from the popular walking ridges and summits of the high Carrick Hills, including from the Corbett of Shalloch on Minnoch and Cornish Hill and also from Craigengower Hill (Colonel Hunter Blair monument) near Straiton. This proposal would also be seen together with the operational Dersalloch Windfarm in views from settlement and from Core Path SA47 Bannan Walk which is aligned in this valley as illustrated by the visualisations from the RVAA and from Additional Wirelines C-F. Views from more informal unpromoted but popular walking routes around Rowantree and Pinbreck Hills which lie to the west of Nick of the Balloch and to the southern edge of the Stinchar valley would also be significantly affected. Therefore, and as noted in the assessment of landscape and visual impact, it is concluded that a number of these tourism and recreational assets will experience adverse visual impact effects.

Conclusions on Tourism Attractions and Recreational Assets

9.5.36 **The Council objects to this development proposal on the basis of significant adverse landscape and visual effects due to the scale and positioning of the proposed turbines and the associated impacts of these effects on the tourism and recreational resource of the locality including the Merrick Wild Land Area, Galloway Forest Park and The Dark Sky Park. It is considered that the significant adverse landscape and visual effects of this wind farm could not be mitigated by reducing the size or number of turbines. The location of this proposal is inappropriate given the sensitivity of nearby landscapes.**

9.5.37 It should be noted that an assessment of the potential physical impacts and implications of the development proposals on active travel routes (including rights of way and core paths) which support tourism and recreation in this area has been undertaken separately in the proceeding sub-section below (e.g., in response to criteria c). This considers the significance of the direct and physical impacts of the development on path networks and routes within and close to the site, the relevant mitigation that would be required to offset expected impacts alongside setting out of certain opportunities for recreational improvements that could be made should the development be granted contrary to Council recommendations.

9.6 **Criterion (c): Communities Quality of Life and Amenity (including Residential Amenity)**

We will support proposals if:

- ✓ **They do not have any other significant detrimental effect on the amenity of nearby residents, including from noise and shadow flicker;**

Additional LDP Policies

LDP Policy Sustainable Development
LDP Policy Air, Noise and Light Pollution
LDP Policy Land Use and Transport

Noise

- 9.6.1 Volume 1, Chapter 10 of EIA Report (alongside associated appendices) considers construction, operational, decommissioning, and cumulative noise and vibration impacts associated with the proposed development. It is relevant to note that whilst the assessment of operational noise impacts is comprehensive and includes consideration of both the potential impacts of the turbines themselves and also other infrastructure features including the substation and energy storage facility, the latter was discounted due to a combination of the predicted noise output and the large separation distances from nearby receptors which would make its impact negligible. The focus of this element of the assessment therefore relates to the predicted operational noise levels of the turbines both as an isolated development but also in accumulation with other surrounding developments.
- 9.6.2 The Council's noise consultant, ACCON UK Limited, have been internally consulted to review the submitted documents relating to noise in order to inform Council considerations as whether the noise assessments have been carried out appropriately and to advise on the acceptability or otherwise of the proposals with respect of noise. In their response, ACCON has advised that the methodologies used in the noise chapter represent good practice and are in line with ETSUR-97 (operational noise) and the Institute of Acoustics (IOA) Good Practice Guidance for wind turbines. As part of this, they also endorse the approach to deriving cumulative noise limits and subsequent site-specific noise limits which they conclude are also in line with the same guidance referenced above. They ultimately agree with the noise assessment undertaken on the basis that predicted operational noise levels would not exceed limits set in accordance with planning policy and on the basis that the noise impacts from construction and decommissioning stage would not be significant subject to mitigation.
- 9.6.3 Based on the assessment and explanations provided in the EIA Report, ACCON have advised that there would be no unacceptable or significant impacts from noise on nearby receptors subject to conditions governing controls on construction and operational noise limits, the control of amplitude modulation and also vibration and air over-pressure from blasting. On the point of defining the noise limits, it is worth highlighting that ACCON as part of their assessment identified the fact that the applicant proposes two sets of noise limits for some properties, with lower limits derived from the Carrick baseline surveys. Following further review, ACCON advise that if the development was to be progressed and approved contrary to Council recommendation, the lower of the two limits should be selected and be secured through appropriately worded planning conditions as they see no logical reason not to set a lower limit where both are possible and achievable.

- 9.6.4 South Ayrshire Council Environmental Health Service have also reviewed the potential impacts of construction noise associated with the development. In their internal consultation response to the Planning Authority, they have not raised any objections to the assessment undertaken. If the application was to be approved, both ACCON and South Ayrshire Council Environmental Health Service would require conditions to be attached in the interests of residential amenity.

Shadow Flicker

- 9.6.5 Under certain conditions when the sun passes behind the rotors of a turbine, a shadow can be cast on neighbouring and surrounding 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. 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 Council's Supplementary Guidance requires an assessment to be undertaken for all properties within 2.5km of a proposed development (this distance threshold should take into account any screening of turbines offered by topography).
- 9.6.6 The potential effects of shadow flicker occurring from the operational phase development have been considered in a bespoke assessment which has been presented as part of the EIA Report, Volume 1, Chapter 16. As part of this, shadow flicker assessments were undertaken at two properties identified within the study area (Linfairn and Knockskae), with both of these considered to represent residential receptors with the potential to experience flicker effects.
- 9.6.7 The conclusions of the calculations and modelling was that effects would be experienced for less than 8 hours per year and that these would be within the accepted guidelines and therefore not significant in EIA terms. It is relevant to note as part of this that the model did not take into consideration any local screening from vegetation, blinds or curtains or true window orientation relative to the turbines all of which could be mitigating factors and further reduce potential time that receptors are likely to experience shadow flicker over the course of the year. Fundamentally, these values are well within the accepted limits of shadow flicker, of either 30 minutes per day or less than 30 hours per year as set out in the paragraph above. South Ayrshire Council's Environmental Health Service in their internal consultation response do not raise concerns with regard to shadow flicker but recommend that a condition is imposed requiring an investigation by a suitable qualified person should a complaint regarding shadow flicker from the development (if approved an implemented) be received. Should a loss of amenity due to shadow flicker be confirmed as part of the mitigation, the condition would also require mitigation measures to be proposed and implemented to address the impact.

Residential Visual Amenity Assessment (RVAA)

- 9.6.8 The SAC Supplementary Guidance on Wind Energy 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. It states as a general rule, that a separation distance of 2km should be maintained between turbines and settlements and that an assessment of all residential properties within 2.5km from the proposed wind farms should be undertaken. The Residential Visual Amenity Assessment (RVAA) (Appendix 6.3) identifies 14 properties within a 2km radius boundary and these form part of the study area (Craigard, Craigenallie Cottage, Dalmorton Farm, Dalmorton House, 2 Dalmorton Cottage, Genoch, Genoch Cottage, Glenlinn Cottage, Knockskae, Linfairn, Palmullan Cottage, Tairlaw Toll Cottage, Tairlaw Toll House and Tallyminnoch). The RVAA thereafter considers these properties sequentially in relation to four technical steps with the requirement to continue the assessment against the relevant step for each property being dependent upon the level of impact identified in the earlier steps. Step 1 involves a definition of the study area and scope of the assessment, informed by the description of the proposed development, defining the study area extent and scope of the assessment with respect to the properties to be included. Step 2 requires an evaluation of baseline visual amenity at properties to be included having regard to the landscape and visual context and the proposed development. Step 3 provides an assessment of likely change to visual amenity of included properties in accordance with GLVIA 3 principles and processes. Step 4 if it is deemed necessary, involves a further assessment of predicted change to visual amenity of properties to be included forming a judgement with respect to the residential visual amenity threshold.
- 9.6.9 The RVAA identifies no residential properties within 1km and establishes that one of the 14 properties within the 2km study area is derelict (Dalmorton Cottage). Of the 13 remaining residential properties within the study area, the assessment concludes that they will all have potential views of the proposed development and detailed assessment sheets have been prepared for each of these properties. For properties Dalmorton Farm, Dalmorton House, Genoch Cottage, Linfairn and Tallyminnoch, the magnitude of change is assessed as between Medium-Low and Negligible and a Moderate-Minor to Minor level of 'Not Significant' effect has been recorded. For properties Craigard, Craigenallie Cottage, Genoch, Glenlinn Cottage, Palmullan Cottage, Tairlaw Toll Cottage and Tairlaw Toll House, the magnitude of change is assessed as between Medium and Medium-High and a Moderate-Major to Major Significant effect has been recorded. A High Magnitude of change has been predicted for Knockskae in the detailed assessment sheets as part of the Step 3 RVAA and is therefore also considered for a Step 4 Residential Visual Amenity Threshold assessment. The conclusion of this Step 4 assessment is that whilst a High Magnitude of change and Major Significant Effect is predicted, the nature of the visual impact at this property is not sufficiently adverse to be characterised as an overwhelming or overbearing effect on visual amenity. In conclusion, whilst the RVAA has assessed 8 of the 14 properties within the study area to have Significant visual effects, the position reached is that the proposed development will not lead to a residential visual amenity threshold being reached.

- 9.6.10 Inspection was undertaken by the Council and the landscape consultant of the properties considered in the RVAA through a series of physical site visits alongside an assessment of the RVAA. Observations during the site visit identified that whilst the RVAA described Tairlaw Toll Collage as a single storey property, the property had in fact been converted to accommodate an upper living area with views out towards the application site and development areas. Following on from this, an additional visualisation was provided by the applicant from Tairlaw Toll Cottage at the request of South Ayrshire Council with this additional wireline visualisation seeking to demonstrate the extent to which the proposed development would be visible the upper storey living area within the property itself.
- 9.6.11 The Council has taken into account Residential Visual Amenity Assessment Technical Guidance Note 2/19 in its consideration of the potential impacts on residential amenity arising from this development proposal. This is a matter for planning judgement taking into account a wide range of matters informed by the consideration of the assessments and the physical site visits undertaken by officers. The conclusion is that the Council is in agreement with the judgements reached in the RVAA with regard to effects on all properties with the exception of Tairlaw Toll Cottage where the Council consider that the magnitude of change incurred by the proposal is under-estimated and would be high. This is because up to 6 turbines within the proposal would be seen within 1.64km of this property from the principal garden terrace and the upper storey living area. The relatively confined views from the rear (and only garden ground) of the property across a narrow valley would increase the dominance of the turbines in the view and the lighting of turbines would extend the duration of this effect. The Council consider that this proposal would result in an overbearing cumulative effect and upon the residential visual amenity from Tairlaw Toll Cottage and thus pass the Residential Visual Amenity Threshold. The current Carrick Windfarm proposal would exacerbate this effect but would be seen slightly on the periphery of the main view unlike the Knockcronal turbines. For the reasons set out, it is not considered possible to mitigate the impact of the proposed development to an extent that would make it acceptable in planning terms.

Access, Traffic and Transport

- 9.6.12 Traffic and Transport has been assessed primarily in Volume 1, Chapter 12 of the EIA Report with associated supplementary technical appendices to inform this assessment. As previously outlined, there are two potential options by which the proposed development may be accessed from and for the purposes of the assessment in the EIA Report, these are termed as the 'Western Access' and the 'Northern Access'. Details and locations of these have been set out in detail in Section 4 of the report above.
- 9.6.13 The assessment recognises that the proposed development has the potential to affect the surrounding transport network during its construction with a temporary increase in traffic flows on the road network surrounding the site. The maximum traffic effect associated with the construction of the proposed development is predicated to occur in month eight of the construction programme. During this month, an average of 74 HGV movements are predicted per day and it is estimated that there would be a further 35 car and light van movements per day to transport construction works to and from the proposed development. The Transport Assessment, included as technical appendix 12.1, expands upon total predicted traffic levels in greater detail, stating that over the 18-month construction period there is estimated to be in total 14,202 trips, comprising 12,874 car and LGVs and 1,327 HGV movements.

- 9.6.14 Potential effects on the 'Western Access' and 'Northern Access' routes are also considered as part of the assessment. With regards to the 'Western Access', prior to the implementation of mitigation, minor, non-significant effects are likely expected along Hill Road due to the increase in total traffic. For the 'Northern Access' route, it was determined that, prior to the implementation of mitigation, moderate, significant effects could be expected along the unclassified road, approximately 2km to the southwest of Straiton due to the increase in total traffic, as well as along the B741 due to the increase in HGV traffic.
- 9.6.15 Notwithstanding the effects identified, the EIA Report assessment concludes that the transportation effects during the construction phase would be minor in nature due to this only being for a temporary timescale and the fact that it is transitory in nature. Any remaining impacts would be able to be addressed to manageable levels through the implementation of mitigation measures which include a formulated Construction Traffic Management Plan (CTMP), an Abnormal Load Transport Management Plan and a Core Path Management Plan. In addition to this, the applicant sets out a proposal to cover wear and tear of the public road however no specific details are provided for this in the report itself.
- 9.6.16 In terms of the operational phase of the proposed development, traffic levels as set out in the assessment are predicated to be one or two vehicles per week for maintenance purposes. Traffic levels during the decommissioning of the proposed development are also considered to be lower than during the construction phase as some elements may be left in situ and others broken up on site. The conclusion overall is that subject to the implementation of appropriate mitigation, no significant residual effects are anticipated in respect of traffic and transport issues. The potential effects identified are isolated to the construction phase only however as these are both temporary and reversible and also capable of being mitigated, they are deemed to be insignificant in the wider context.
- 9.6.17 As summarised earlier in the report, Transport Scotland (responsible Trunk Roads Authority) in their consultation response to the ECU confirm that they are satisfied with the development in terms of environmental impacts on the trunk road network. They conclude that they do not object to the proposed development, subject to conditions which could be addressed by the ECU.
- 9.6.18 The Council's Roads Authority, Ayrshire Roads Alliance (ARA) have been consulted internally by the Planning Authority and they have advised that they have no objections to the proposed development subject to the inclusion of a suite of conditions and advisory notes relating to various access, road, traffic, and construction activity matters. Most notable as part of their response is the fact that following review, they consider the U27 'Western Access' to be unsuitable for the transportation of wind turbine components. In response to this position, ARA have requested a specific condition which prohibits the use of the U27 'Western Access' for Abnormal Indivisible Loads and construction traffic over the 3-tonne weight limit being allowed to use this route.
- 9.6.19 In addition to this, ARA have also stipulated the requirement for a condition to both design and construct passing places on the U31 (between the junction with the B741 and the proposed 'Northern Site Access'). Equally, if the proposed 'Western Access' is to be pursued for use by construction traffic up to 3 tonnes, then ARA would also stipulate the need for a condition for both the design and construction of passing places on the U27 (between the junction with the B741 and the proposed western site access junction). In both cases, the design and placement of all passing places would require the prior written approval of ARA as Roads Authority and the condition would be worded as to ensure these were in place prior to the first construction trip.

Direct Impacts on Active Travel Access Routes/Recreation

- 9.6.20 This is an area of South Ayrshire which is a very popular with locals and visitors for walking, cycling and horse riding in the countryside. The area around Straiton is especially popular, and the income provided by visiting tourists helps to support its fragile rural economy. Around the area of the proposed windfarm site there are several core paths, a right of way and other (undesignated) routes through the forestry plantations, which are used by the public. Given this, the Council's Outdoor Access Officer has been internally consulted by the Planning Authority to consider the impacts upon tourism and in particular direct impacts on core path and right of way networks both within and surrounding the application site.
- 9.6.21 Following review, the Outdoor Access Officer has advised in their response that the windfarm proposal would have a significant effect on the recreational use of the area in certain circumstances and will directly affect and potentially obstruct the core path and right of way route that run through and in close proximity to the application site. They consider that this will be particularly apparent during the construction phase where it is likely that vehicular traffic into/out of the site will impact on the core path/ right of way route, as it follows along the single-track road past Balbeg and Dalmorton.
- 9.6.22 In response to this, they highlight a need for this to be considered to ensure that the route can be kept open and safe for public use and as part of this they advise that it is essential that the long distance right of way SKC7/core path SA47 which runs through the north western edge of the is not damaged or obstructed, and that any increased vehicular access along the road past Balbeg and Dalmorton Farm is managed in some way so that it does not adversely affect the public's use of the right of way/ core path. Chapter 12 of the EIA Report does capture these considerations as set out with the same comments being provided by this consultee at the earlier EIA Screening Opinion stage. In response to this, the EIA Report advises that a 'Core Path Management Plan' will be deployed, and this will contain on-site measures which will be delivered during the construction phase. Section 12.7.5 to 12.7.11 provides details of the onsite measures that would be in place through the Core Path Management Plan to ensure potential interactions between construction traffic and users of the core paths (including pedestrians, cyclists, and horse riders) are managed safely.
- 9.6.23 The Council's Outdoor Access Officer concludes that whilst they have identified that impacts on access will be significant, they do not recommend objecting on these grounds subject to mitigating measures being taken, if consent is granted, to protect and retain at the very least the identified core paths and rights of way in the area. They set out that this matter could be addressed within the Core Path Management Plan that the EIA Report commits to undertaking as mitigation. In addition to this, they also request that the developer seeks to improve the signage of the right of way/core path route to avoid walkers getting confused or lost, especially if additional access roads/tracks are constructed in these areas for the windfarm development. If the application were to be approved contrary to South Ayrshire Council recommendation, the Council would wish to be consulted further in order to recommend conditions which secure the above measures and improvements.
- 9.6.24 Whilst it is noted that ScotsWay have submitted a holding objection in their consultation response to the ECU on the basis of insufficient supporting information, given the specific grounds of their objection, it is not considered that this changes the position set out above from a planning perspective noting the Council's Outdoor Access Officers response. ScotsWay's holding objection would require to be considered and addressed by the ECU should this be warranted. On this basis, it is not considered that the proposed development would have an unacceptable or permanent impacts on core paths and rights of way subject to appropriate mitigation and improvements being made in line with their requests.

Conclusions on Communities Quality of Life and Amenity (including Residential Amenity)

9.6.25 It is recommended that the Council objects to the proposed Knockcronal Windfarm as it is considered that the proposed development will be overbearing in terms of the residential visual amenity impact to the property of Tairlaw Toll Cottage. The residential visual amenity of the property would be adversely affected to such a degree that the property would become undesirable places to live, and it is considered that the impact cannot readily be mitigated due to the proximity of the turbines to the affected houses, the height of the turbines and the openness of views towards the turbines.

9.6.26 It is considered that the impacts arising from the proposed Knockcronal Windfarm in relation to operational noise, shadow flicker, access, traffic and transport and active travel routes and recreation are generally acceptable subject to conditions and other forms of mitigation being in place where appropriate and required.

9.6.27 In light of the above, it is concluded that the proposed development is not in accordance with Local Development Plan Wind Energy Criterion c) and is in conflict with elements of LDP Policy Sustainable Development whilst being in accordance with LDP Policy Air, Noise and Light Pollution (in local residential context) and LDP Policy Land Use and Transportation.

9.7 **Criterion (d): Natural Heritage**

We will support proposals if:

- ✓ **They do not have a significant detrimental effect on natural heritage features, including protected habitats and species, and taking into account the criteria in LDP policy: Natural heritage;**

Additional LDP Policies

LDP Policy Natural Heritage
LDP Policy Sustainable Development
LDP Policy Water Environment

Ecology and habitats

9.7.1 Volume 1, Chapter 8 of the EIA Report provides an assessment which seeks to establish the likely presence or likely absence of protected or notable ecological species, identify statutory and non-statutory designated sites for nature conservation in the vicinity of the proposed development and evaluates the overall conservation status of the land within the site boundary. Thereafter, the potential for the proposed development to have an adverse effect on designated sites and protected and notable ecological species and habitats is considered at construction, operational and decommissioning stage along with the setting out of committed mitigation measures where applicable and required. Opportunities for biodiversity enhancement are also outlined as part of this. The assessment in this chapter is informed by a desk study, and an extended Phase 1 habitat survey, NVC surveys, terrestrial mammal surveys, fish surveys and bat surveys which it considers enables the informed determination of the likely ecological effects of the proposed development to be set out and predicted.

- 9.7.2 The proposed development site is characterised by moorland and agricultural farmland which is typical of this region of Scotland. There are no formally designated nature conservation sites within the site boundary however there are seven nature conservation designated sites within 10km and with the closest being the Auchalton SSSI the (4.6km to the north-west) and the furthest being the Merrick Kells SAC (9.4KM to the south -east). There are two provisional Local Wildlife Sites (pLWS) within 2km of the proposed development, including Straiton Hills pLWS, located within the north-east part of the site boundary and River Stinchar (Milton to Black Hill) pLWS. The site is also within the Galloway and Southern Ayrshire Biosphere United Nations Educational, Scientific and Cultural Organisation (UNESCO) Reserve which is recognised as an internationally world class environment for people and nature albeit it has no specific ecological features. Firstly, the assessment concludes that none of the designated sites are considered to be affected by the proposed development due to the distance and intersecting landscape. The two provisional sites although much closer were also scoped out of further consideration in the assessment. Whilst the Straiton Hills pLWS is within the site for the proposed development, the layout has been designed to avoid this non statutory designation and therefore no direct effects are anticipated. For the River Stinchar (Milton to Black Hill) pLWS, this is located over 500m from the site and therefore no direct effects are anticipated either. Embedded mitigation, including the implementation of good practice construction measures and pollution prevention controls) are proposed in relation to both and these are considered to be adequate to avoid any potentially significant adverse indirect effects upon these provisional designations.
- 9.7.3 The ecology assessment also considers both the direct and in-direct loss of habitats and vegetation. It identifies that the total direct land take for the proposed development will be 16.57 ha, of which 0.55 ha are accounted for as small areas of blanket bog and wet modified bog (1.73ha) and wet dwarf shrub heath (0.32ha) which will be permanently lost due to the construction of the development. The remaining 16.02 ha of habitats to be directly lost comprise marshy grassland, acid grassland, neutral grassland, improved grassland, dense scrub, bracken, mosaic habitat and coniferous plantation woodland which have been scoped out of the assessment. The assessment establishes that there will be a 1% direct relative coverage loss of blanket bog habitat and 12% direct relative coverage loss of wet heath habitat from the proposed development, with the wet heath habitat restricted to isolated areas along the permanent access road. The direct and indirect loss of the above habitats in this assessment to be considered to constitute an impact of low/medium adverse magnitude, resulting in an effect of minor adverse significance, and which is not significant in the context of the EIA Regulations. NatureScot support the outline mitigation measures including the avoidance of main areas of Annex 1 habitats via design, the protection of Annex 1 habitats through good practice measures (such as pollution control measures and habitat restoration) and the Habitat Management Plan to include grassland management which will enhance grassland habitats on-site.

- 9.7.4 The EIA Report considers the potential effects of the proposed development on a number of species and following review establishes that the following species do not require further consideration subject to embedded mitigation (including the implementation of good practice construction measures and pre-construction surveys which were considered adequate to avoid any potentially significant adverse effects); amphibians and reptiles, invertebrates, fish, badgers, red squirrel, pine marten, otter and water vole. Whilst roosting bats had also been scoped out, foraging, and commuting bats had been scoped in due to records showing the presence of bat species within the study area. Potential construction effects on bats have been assessed and overall habitat losses for bats were considered not significant with disturbance caused by noise, lighting and dust generation during construction would be limited by good practice construction measures and therefore are considered not significant. The impact of bat collision risk mortality due to the proposed development was also considered not to be significant with embedded mitigation (in this case buffer zones from and 'standoff' distances to bat features in accordance with NatureScot guidance) considered adequate mitigation to avoid potentially significant operational mortality risks at most low-risk locations.
- 9.7.5 More broadly and in order to manage effects to predicted levels as set out in the assessment, standard mitigation is proposed. The measures adopted would include embedded mitigation in scheme design, good practice measures, i.e., production of a species protection plan (SPP), pre-clearance surveys, appointment of an Ecological Clerk of Works (ECoW) to oversee the implementation of the ecology mitigation measures, and habitat enhancement opportunities detailed in an outline habitat management plan to be implemented. Following the application of the standard mitigation, the assessment anticipates that there will be no significant adverse direct and/or indirect effects on ecological features as a result of the proposed development.
- 9.7.6 Overall, weight is given to the fact that NatureScot offer no objections to the proposed development in terms of direct ecology impacts including protected species and ecological receptors and designations. They recommend that should consent be granted, the works should be undertaken in accordance with the measures detailed in the EIA Report alongside recommendations and best practice guidance set out in their own consultation response to the ECU. This includes a suite of mitigation relating to the protection of species (such as bats, deer, and countryside), access during the construction stage and the decommissioning stage of development. In addition to this, whilst they confirm that there is no requirement for protected species licenses to be obtained prior to the commencement of development, given the mobile nature of species, and forecasting any time lapses between survey work and development work commencing, they advise that updated species surveys and a Species Protected Plan may need to be provided. The majority of these matters could be addressed as appropriately worded planning conditions by the ECU.

Ornithology

- 9.7.7 Volume 1, Chapter 7 of the EIA Report provides a detailed assessment of the potential impacts of the development on ornithology with this undertaken through combination of consultation feedback and dialogue with ornithological organisations, desktop studies (informed by comprehensive baseline data), and targeted ornithological field surveys (which took place over the period of a year; 2019 to 2020).
- 9.7.8 The results of the assessment were used to inform the identification of important ornithological features within and around the site and access roads with the primary findings being that the site supports an inconsequential record of those ornithology species considered 'Target Species' for the assessment. The conclusion set out in the assessment is that there would be no significant effects to either species of notable conservation value or associated habitat loss and that no ornithological features required to be scoped into the assessment. The same suite of standard mitigation as proposed in the ecology assessment has been included with the addition of a Breeding Bird Protection Plan (BBPP) which will be produced by the applicant and adhered to during the construction stage to reduce the effects of disturbance and displacement.
- 9.7.9 NatureScot is the statutory consultee where matters of ornithology are concerned. In this case and as set out in their consultation response to the ECU, they state that they agree that ornithological interests will not be directly or indirectly adversely impacted upon as a result of the proposed development and this includes the Ailsa Craig Special Protection Area (SPA) which is protected for a range of bird species, including lesser black-backed gulls. NatureScot support the mitigation and more specifically the proposals to follow a Breeding Bird Protection Plan (BBPP) which includes pre-construction breeding bird surveys and adherence to best practice disturbance buffers. They advise that this should be submitted to the ECU for approval prior to development commencing and that once approved, the plan should operate in each breeding season for the duration of the construction period.
- 9.7.10 The Council's Biodiversity and Rangers Services in their internal consultation response to the Planning Authority generally echo NatureScot's position as set out above, offering no objections on these grounds subject to mitigation being secured and delivered as part of the development. As part of the mitigation proposed however they advise that in addition to the species covered by NatureScot, they would want to include curlew and ground nesting upland waders to be covered by the Construction Breeding Bird Protection Plan. Furthermore, they note that the MBBS survey identified a curlew territory that appears to be between a turbine and borrow pit site. As curlew are red-listed species and lack of breeding success is one of the main contributing factors to their decline, they request specific mitigation to minimise disturbance to the territory.

Conclusions on Natural Heritage Assessment

- 9.7.11 **On balance, and reflecting the positions submitted by Nature Scot, together with the Council's own Biodiversity and Ranger Service it can be concluded that the proposed development is in accordance with LDP Policy Sustainable Development, LDP Policy Water Environment and LDP Policy Natural Heritage subject to conditions in relation to the mitigation set out within the EIA Report and following the relevant provided by these consultees.**

9.8 **Criterion (e) Built & Cultural Heritage**

We will support proposals if:

- ✓ **They do not have a significant detrimental effect on the historic environment, taking into account the criteria in LDP policy: historic environment and LDP policy: archaeology;**

Additional LDP Policies

LDP Policy Sustainable development
LDP Policy Historic environment
LDP Policy Archaeology

Built and Cultural Heritage and Archaeology Assessment

- 9.8.1 The EIA Report contains an assessment of the archaeology and cultural heritage assets (Volume 1, Chapter 11 alongside associated figures and appendices) and includes consideration of direct and indirect (including setting impacts) effects from the construction, operation, and decommissioning phases of the development alongside a consideration of any cumulative impacts from this proposed development in collaboration with other operation, consented or forthcoming developments. As required through the EIA Scoping Opinion process, the parameters of the assessment of this chapter of the EIA Report have been undertaken in line with defined study areas. The first of the 2 is 'The Inner Study Area' which is dictated by the red site boundary of the application site (e.g., the proposed development site including the two access options) and which identifies heritage assets that could receive direct effects arising from the construction of the proposed development and informing the archaeological potential of the site. The second of these is 'The Outer Study Area' which is a wider study area extending 10km from the outermost proposed turbine locations. This is used for the identification of cultural heritage assets whose settings may be affected by the proposed development (including cumulative effects). Views towards any assets identified as having settings sensitive to change have been considered, even where no visibility is predicted from the asset. As part of this, the wider ZTV was also assessed to identify any designated assets specifically requested by consultees, and/or beyond 10km that have settings that may be especially sensitive to the proposed development.

Built and Cultural Heritage and Archaeology Assessment

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- 9.8.3 The baseline assessment has established that there are 34 known heritage assets within the 'Inner Study Area' with these either lying within the site or along the proposed access routes. There are no Scheduled Monuments or Listed Buildings within the 'Inner Study Area', and no part of the Inner Study Area falls within a Conservation Area, Inventory Garden and Designed Landscape or Inventory Historic Battlefield. With the exception of a burnt mound, likely to be of prehistoric date, and a natural mound that may have been used in the medieval period, the 34 heritage assets identified are all of post-medieval date and relate to pastoral farming practices. The burnt mound has been assessed to be of heritage value at a regional level and to be of medium sensitivity and a historic farmstead, recorded as a Non-Statutory Register (NSR) site potentially of national importance, has been assessed as a heritage asset of value at the national level and of high sensitivity. All other sites and features found considered in this assessment are categorised as either of heritage value at a local level, and of low sensitivity, or are of little or no intrinsic heritage value, and of negligible sensitivity.
- 9.8.4 The layout of the proposed development has been designed as far as possible to avoid direct effects on the identified heritage assets within the site. Direct impacts on four heritage assets, each of low sensitivity, have been identified as part of this assessment however this is to be balanced when taking account of the current land-use and historic landscape character of the site and its surroundings, the assessment summarises that the potential for further archaeological discoveries within the site is assessed as being low to moderate. The EIA Report advises that these effects would be offset through a programme of mitigation to recover any archaeological information that may be present at the affected locations. This mitigation would be deployed at the construction phase and include preservation and marking out of assets, archaeological investigation and recording, post-excavation assessment and reporting and construction guidelines and protocols. No mitigation is proposed or deemed necessary for the operational and decommissioning stages of the proposed development.

- 9.8.5 Within 10km of the proposed development there are ten Scheduled Monuments (three with predicted theoretical visibility of the proposed development); eight Category A Listed Buildings (one with predicted theoretical visibility); 65 Category B Listed Buildings (32 with predicted theoretical visibility); three Conservation Areas (all with some degree of predicted theoretical visibility); and four Inventory Gardens and Designed Landscapes (three with some degree of predicted theoretical visibility). Within 5 km of the proposed development there are 11 Non-Statutory Register (NSR) sites (eight with predicted theoretical visibility), one Non-Inventory Designed Landscapes (NIDL), and 20 Category C Listed Buildings (all with some degree of predicted theoretical visibility). 11.11.7 An effect of Moderate significance (significant in EIA terms) is predicted on the setting of Knockoner Cairn (HER Ref: 11669), a possible burial cairn determined by WoSAS to be potentially of national importance and assessed on that basis as being of high sensitivity and recorded in the HER as being potentially of national importance but of doubtful antiquity. The EIA Report sets out that the effect, which would not adversely affect or diminish the feature's cultural significance, would last for the duration of the operational phase of the proposed development individually and cumulatively with other operational, consented, or proposed developments. Taken in the context of existing operational wind farms in the wider landscape, a significant cumulative effect is predicted arising from the proposed development in combination with the proposed Carrick Wind Farm (current Section 36 application being considered by the ECU), the predicted effects would occur on the setting of Knockinculloch, enclosures on E slope of, 600 m NW of Glenalla (SM 3357). As is the case with the burial cairn, the EIA Report assesses that the combined developments would not however adversely affect the heritage value or cultural significance of the scheduled monument.
- 9.8.6 In terms of consultations, it is noted from review of Historic Environment Scotland's consultation response to the ECU that they agree with the conclusions of the EIA Report in that none of the heritage assets within their remit (e.g. world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, and gardens and designed landscapes (GDLs) and battlefields in their respective inventories) are likely to receive significant adverse impacts as a result of the proposed development.
- 9.8.7 WoSAS have been internally consulted by the Planning Authority to inform considerations of the archaeological assessment, findings, and conclusions of the EIA Report. Whilst WoSAS in their response outline a general agreement with the cultural heritage chapter of the EIA Report in the feedback provided, they do highlight a number of areas as part of the assessment where they consider relevant matters have either not been assessed fully or the significance of the effects have been underplayed. This includes the general assumption built in the document that former farmsteads in the landscape area are (and would be) limited to lower valley sides and floors, with examples only a few km to the northeast of the site (Munteoch and Little Shalloch at 260 metres and 280 metres altitude respectively) not conforming to such an assumption. Alongside this, they explicitly mention the fact that the assessment does not benefit from the knowledge of features carbon-dated to the late Neolithic and Early Bronze Age which were found during topographically led mitigation work during the construction of Dersalloch Windfarm to the northeast of this site. Finally, WoSAS advise that there are three former NSR sites (Knockoner cairn, Knockoner farmstead, Dalmorton cairn) where they feel the assessment has slightly underplayed the significance of the effect of the proposals on their baseline setting in the sense that surely the simple act of appreciation of these rural sites in a rural setting would be significantly impacted.
- 9.8.8 Notwithstanding the observations and issues that they have identified as summarised above, WoSAS finalise their response by advising that as they ultimately do not disagree with the overall conclusions of the assessment, they opt to take a balanced approach and they do not consider any of the above constitute reasons to formally object or recommend

refusal. Beyond this final position, they welcome the intended mitigation of the appointment of an archaeological clerk of works and advise in their response that they look forward to agreeing a more extensive programme of mitigation than that suggested in the document to account for potential buried archaeology on site. To this end, they request a condition, if the proposed development is to be approved, relating to providing a programme of archaeological works and a written scheme of investigation to be agreed with them and thereafter be implemented and maintained during the construction phase of the proposed development.

Conclusions on Built and Cultural Heritage and Archaeology Assessment

- 9.8.9 **On balance and reflecting on the positions submitted by Historic Environment Scotland and WoSAS, it can be concluded that the proposed development is in accordance with LDP Policy Wind Energy Criterion e), LDP Policy Historic Environment and LDP Policy Archaeology provided conditions requiring an archaeological watching brief were to be imposed should consent be granted for the development.**

9.9 Criterion (f): Aviation, Defence, Broadcasting, Cumulative Impacts & Other Matters

We will support proposals if:

- ✓ They do not adversely affect aviation, defence interests and broadcasting installation; and their cumulative impact in combination with other existing and approved wind energy development, and those for which applications for approval have already been submitted, is acceptable.

Secondary LDP Policy

LDP Policy Natural Heritage
LDP Policy Archaeology
LDP Policy Historic Environment
LDP Policy Air, Noise and Light Pollution
LDP Policy Protecting the Landscape
LDP Policy Sustainable Development
LDP Policy Spatial Strategy
LDP Policy Water Environment

Aviation & Defence Matters

- 9.9.1 It is noted that at the time of writing, the Civil Aviation Authority (CAA) have not formally responded to the Scottish Ministers consultation request. Notwithstanding this, and as previously set out in earlier sub-sections above, the applicant has received formal and direct correspondence from the CAA (dated 6th May 2022) which confirms their lighting requirements. From experience of previous applications, it was understood that ordinarily the CAA requires that all obstacles at or above 150m above ground level are fitted with visible lighting and in the case of wind turbines these should be located on the nacelle. However, the letter dated from the 6th May 2022 indicates the CAA have agreed a variation to the lighting scheme with an overall reduction in the lighting provision required. This agreed variation would mean the following; medium intensity steady red (2000 candela) lights on the nacelles of turbines T01, T04, T06 and T09, a second 2000 candela light on the nacelles of the same turbines as backups should the main lights fail, the ability for lighting on these same turbines to be dimmed to 10% of peak intensity when the lowest visibility exceeds 5km (established by measuring devices) and infra-red lights to MoD specification installed on the nacelles of turbines T01, T02, T04, T05, T06, T07, T08 and T09. The CAA confirm that intermediate level 32 candela lights are not required to be fitted on the turbine towers.

- 9.9.2 Beyond the chapter of the EIA Report for Aviation and Radar impacts (Chapter 14), an assessment of these specific CAA matters is set out through the Aviation Lighting Report (Appendix 14.1) which has been prepared on behalf of the applicant by 'Wind Power Aviation Consultants Ltd' and which forms part of the overall EIA Report (this has been updated to reflect CAA correspondence received in May 2022). This accompanying report is divided into two parts; Part 1 proposes a lighting design that is compliant with existing and draft (but soon to be ratified) regulations and guidance contained within as discussed with the CAA and the MoD. It explains the rationale behind the lighting design taking into account the requirement to minimise the number of turbines illuminated with aviation obstruction lights whilst maintaining flight safety and provides a detailed assessment of the brilliance of the lighting when viewed from a number of viewpoints provided by the LVIA consultant after consultation with the relevant stakeholders including NatureScot and the Local Planning Authority. Part 2 of the report identifies and seeks to explain those mitigation measures that can be utilised to minimise the environmental effect of the lights including an assessment of the historical meteorological data from which to predict the luminous intensity requirements for the lights. In summary, the additional report explores the requirements for both visible, CAA approved aviation lighting and MoD approved Infra-Red lighting for the Knockcraon Windfarm and establishes that CAA/ANO Red lights and MoD IR lights will be required. As previously set out, the report also assesses the brilliance of lights that will be visible alongside recommendation mitigation to reduce the overall presence and visual impact of the lighting required.
- 9.9.3 The MoD advise in their consultation response to the ECU that the development site occupies Tactical Training Area 20T (TTA 20T) with the turbines in these locations having the potential to introduce a physical obstruction to low flying aircraft. As a result of this and in the interests of air safety, they have requested that the turbines subject to the development be fitted with MoD accredited aviation safety lighting in accordance with the CAA, Air Navigation Order 2016. The applicant has gestured to these requests in the Aviation Lighting Report and has updated the lighting scheme to align with the approach accepted by the CAA in recent correspondence.
- 9.9.4 The consultation response from NATS at the time of writing this report objects to the proposal. NATs en-route Ltd is responsible for the safe and expeditious movement in the en-route phase of flight for aircraft operating in the controlled airspace in the UK. They operate a network of radar, communication systems and navigational aids to carry out its functions and has a specific duty for safeguarding the relevant infrastructure to ensure its integrity to provide the required services to Air Traffic Control (ATC). As wind farms pose the potential to compromise all of these features, NATS require to assess the potential impacts and propose mitigation if it is appropriate to do so and have assessed the proposed development in this context. The response includes a report which covers their technical assessment of the proposed developments potential impacts on radar, communication and navigational equipment and features. In relation to the Lowther Hill Radar, NATS technical assessment advises that the terrain screening available will not adequately attenuate the signal and therefore predicts that this development is likely to cause false primary plots to be generated. A reduction in the RADAR's probability of detection, for real aircraft, is also anticipated. With regards to the other two technical assessments, NATs advise that no impact is anticipated for navigational aids or their radio communication equipment in relation to the proposed developments. NATs conclude that the proposed development has been examined by technical and operational safeguarding teams and a technical impact is anticipated, this has been deemed to be unacceptable (e.g., the impact on the Lowther Hill Radar).

- 9.9.5 The consultation response issued by Glasgow Prestwick Airport (GPA) to the ECU also object to the proposed development and states a requirement to maintain this objection until such time as certain aviation safety matters are addressed. The consultation response comprises of a number of assessments with these sub-divided into topics which comprise of the following matters: Aviation Lighting, Primary Surveillance Radar (PSR), Instrument Flight Procedures (IFP's), Technical Safeguarding – VHF/UHF Communication Equipment(s), Secondary Surveillance Radar (SSR), ATC Operational Impact Assessment and Cumulative Impact before drawing these matters together in a conclusion.
- 9.9.6 Firstly, in terms of Aviation Lighting, GPA have advised at the time of consultant that they were content with the lighting design with the drafting lighting scheme and layout depicted in the Aviation Lighting Report which forms part of the wider EIA Report. GPA have caveated their position on this by advising of a need for them to be further consulted if an Aircraft Detention Lighting System (ADLS) dependent upon Electronic Conspicuity Equipment is considered or if overall lighting scheme and layout as set out in the Aviation Lighting Report is alternated. It is assumed that they would require to re-consulted given the variations to the lighting scheme agreed by the CAA in May 2022. In relation to the Primary Surveillance Radar considerations, GPA advises that all 9 turbines will be visible to GPA's primary radars and will generate unacceptable radar clutter that will require to be mitigated for the lifetime of the development. In line with their aviation safeguarding process, GPA set out that it will be necessary for further detailed radar modelling assessments/flight trials be undertaken to confirm the exact number of turbines visible to GPA primary radars – and whether the clutter (and other degravative effects resulting – i.e., shadowing, loss of base of radar cover, etc.) from the visible turbines can be mitigated (via an appropriate radar technology solution and associated mitigation agreement). In response to Instrument Flight Procedures (IFP's) and Technical Safeguarding – VHF/UHF Communication Equipment(s) considerations, GPA conclude that further assessment is likely to be required to ensure protection of relevant airport features. Firstly, given the proposed maximum tip height (200m) of the turbines, GPA request that the developer engages with them to agree who undertakes the IFP Assessment to establish fully if the proposed development is likely to have any impact on our published Instrument Flight Procedures (IFP's) – both conventional and RNAV/RNP IFP's as published in the UK Aeronautical Information Publication (AIP) for GPA (EGPK). Secondly, GPA preliminary analysis indicates it may also be necessary to conduct a detailed Technical Safeguarding Assessment in respect of the protection of the Airport's VHF/UHF Radio Navigation Equipment(s).

- 9.9.7 GPA also have concerns that the cumulative impact and proliferation of windfarms in the vicinity of this proposed development may have an impact on the low-level coverage that GPA currently enjoys from the SSR radar data feed it receives from the NATS Lowther Hill SSR. These concerns will require to be considered as part of the overall technical safeguarding assessment. A preliminary ATC Operational Assessment indicates that while this proposed development lies outside of Prestwick Airport's Controlled Airspace (CAS), it is in an area where GPA regularly provide an air traffic service, and as such if some (or all) of the turbines are confirmed visible to their primary radar(s) then mitigation will be required, together with a review of any impact on our flight procedures or aeronautical charts as published in the UK Aeronautical Information Publication (AIP) for Prestwick Airport (EGPK). GPA also raises concerns in respect of the cumulative impact, due to other operational, consented and proposed windfarms in the vicinity of the proposed Knockcronal Windfarm and the impact that this cumulative proliferation of windfarms may have on the Airports Communications, Navigation and Surveillance equipment(s), together with the potential for a resulting ATC operational impact - in having such a dense cluster of windfarms in the vicinity of the aerodrome in an area of airspace where GPA ATC regularly provide an air traffic service to aircraft.
- 9.9.8 Current guidance (SG Wind Energy) requires developers to demonstrate agreement between the developer and airport operators that a technological or other mitigation solution is in place which demonstrates their development would not threaten the current operation of the airport or the expansion aspirations sought by the Council and Government. The LDP Policy on Wind Energy (and the supporting SG) is clear where it states that the Council will only support proposals if "they do not adversely affect aviation".
- 9.9.9 An update was sought by the Council from the applicant in late April 2022 to establish if the earlier objection as set out above had progressed and/or been addressed in any way by the applicant or the appointed agents/consultants. A response was provided to the Council which advised that the applicant and their advisers at this time continue to engage with Glasgow Prestwick Airport and NATS following their objections. As part of the correspondence received by the Council, the applicant sets out that in March 2022 they have made explicit their interest in participating in forthcoming flight trails for new technologies noting the main aviation issues are due to Glasgow Prestwick Airport's Aircraft Traffic Control System and NATS' Lowther Hill radar. They concluded by advising that the applicant and their consultants are confident both issues are mitigatable, with different solutions under review for each system/radar. Notwithstanding this update, the holding objection from GPA remains in place at the time of writing this report, with no re-consultation available on the ECU website.

Conclusions on Aviation and Defence Matters

- 9.9.10 **Both Glasgow Prestwick Airport (GPA) and NATS have issued holding objections. The safeguarding assessment carried out by GPA has identified potential adverse effects on the Airport's primary surveillance radar, secondary surveillance radar and the VHF/UHF communication equipment. Gradual erosion of airspace through wind farm development has the potential to compromise safety, flexibility, capacity and potentially the viability of the airport. Therefore, the Supplementary Guidance for Wind Energy requires developers to demonstrate that their development does not impinge on the current operation of Glasgow Prestwick Airport and applicants are required to demonstrate agreement between themselves and the relevant operator that mitigation can be delivered within a reasonable timeframe and provide appropriate mitigation.**
- 9.9.11 **Considering the above, including the current position of GPA, it is evident that there a number of matters which remain outstanding in relation to potential radar impacts, and it is for this reason that they as a consultee have had to object to the ECU at this time. Notwithstanding the ongoing discussions and dialogue between the applicant, their adviser and GPA, given GPA's formalised position at this time as a consultee (e.g., a holding objection) remains unchanged and in consideration of the requirements of the LDP policy as set out, the Council objects to this development proposal.**
- 9.9.12 **The basis for this is that the developer/applicant has not demonstrated at the time of consideration of the application that that their development does not impinge and/or compromise on the current operation of GPA. This includes the need for both further information and assessments and the need to establish and have in place an agreed radar mitigation following on from this which would be available and maintained for the lifetime of this windfarm development. As a result, the proposal is therefore contrary to the relevant aspect of the policy and Supplementary Guidance 'Wind Energy – Criterion f) as detailed above.**

Broadcasting and Telecommunications

- 9.9.13 Volume 1, Chapter 14 of the EIA Report provides a full assessment of the potential effects on aviation, radar, and telecommunication infrastructure of the proposed development. Alongside the consideration of the relevant telecommunications legislation, policy, and guidelines frameworks to inform consideration, the bulk of this assessment involves consultation with statutory/non-statutory consultees and stakeholders to identify the presence of any potential telecommunications features and links. A summary of consultations undertaken, and the responses provided has been included in a table as part of this chapter and it is evident from review of the feedback received that there are no telecommunication links present which would require further consideration in relation to the proposed development.
- 9.9.14 This chapter concludes this particular assessment by confirming that due to the lack of presence of telecommunication features and links, there will be no effects on telecommunications from the construction, operation or decommissioning of the proposed development and that as a result no mitigation measures is deemed necessary. As part of this, the conclusion goes on to confirm that as proposed development will not impact any telecommunication links directly, the potential for cumulative effects on telecommunication links from this development in conjunction with other developments is also not relevant.
- 9.9.15 It is noted that the relevant consultation responses received from the ECU do not raise any issues of concern in this regard and this includes the response provided by BT.

Cumulative Effects

Landscape and Visual Impact and Natural, Built and Cultural Heritage

9.9.16 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 and it is concluded that there will be adverse cumulative Landscape and Visual effects associated with this proposal.

Residential Amenity (Noise)

9.9.17 As previously set out, the applicant's noise impact assessment as part of the EIA Report 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.

9.9.18 The cumulative noise assessment which forms part of this overall chapter of the EIA Report demonstrates consideration of the combined effect of wind turbine noise from the proposed development along with Dersalloch Windfarm (operational), Hadyard Hill Windfarm (operational), Carrick Windfarm (proposed) and Craiginmoddie Windfarm (proposed). The conclusions 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.

Conclusions on Cumulative Impacts Assessment

9.9.19 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 cumulative impacts have been identified.

Other Matters

Forestry

9.9.20 The extent of woodland within the proposed development boundary is predominantly limited to parts of the two access routes to the site. The forestry in these areas consists of a mixture of commercial forests and broadleaf woodlands of various ages. As the main windfarm is to be situated on predominantly open ground, felling will only be required as part of the development to allow road widening, swept path clearances and also laydown areas and compound for the site access. The extent of woodland loss would ultimately be dependent on the selection of the preferred route and the final route alignment.

9.9.21 As part of the forestry assessment in the EIA Report (Volume 4 Appendix 3.2), the assessment considers the loss of forestry and noting the isolated locations and limited extent of the felling works required to enable the proposed development, it concludes that impacts would not be significant. To mitigate the woodland loss, the EIA Report sets out the applicant's commitment to providing compensatory planting and the extent, location and composition of such planting would be agreed with Scottish Forestry, taking into account any revision to the felling and restocking plans prior to the commencement of operation.

9.9.22 From review of Scottish Forestry (SF) consultation response to the ECU, it is evident that they do not object to the proposals subject to conditions. Although Scottish Forestry note the felling requirements to constitute a modest area overall (and this being regardless of the final access route selected), they have confirmed that the applicant would require to provide compensatory planting to comply with Scottish Government policy on woodland removal. As part of this, and if permission was granted, Scottish Forestry outline an expectation to be involved in the woodland creation plans and the compensatory planting programme to be developed as alluded to in the EIA Report. This could reasonably be addressed through conditions by the ECU.

Peat

9.9.23 The Peat Landslide Hazard and Risk Assessment submitted by the applicant has been assessed by Ironside Farrar consultants on behalf of the ECU. In their assessment they request further information, and a submission has been made by the applicant to seek to address this (dated 26th April 2022). Whilst Ironside Farrar consultants have not provided an addendum response as yet, this would be addressed by the ECU and Ironside Farrar separately.

9.9.24 NatureScot in their consultation response to the ECU also provide an assessment of carbon rich soils, deep peat, and priority peatland habitat. They confirm as part of their review that the development will not raise issues of national interest in respect of its impact on peatland and that there are opportunities for habitat enhancement which would benefit the peatland resource. They go on to set out recommendations and mitigation measures in the interests of ensuring that the impact on peatland habitats would be minimised to the fullest possible extent and these matters could be addressed through conditions by the ECU.

9.9.25 SEPA have advised in their consultation response to the ECU that they have considered the peat survey information provided within the EIA Report and as part of this they are satisfied with the approach and commitment that areas of deep peat are to be avoided. They also provide comments on the Chapter 8 of the EIA Report including sub-sections on Peat Disturbance and Peat Slide as well as the Outline Peat Management Plan (PMP) and note the findings of this. They go on to confirm that suitable mitigation (in this case, the use of floating tracks between turbine 7 and turbine 8) is proposed to avoid damage to more sensitive areas. Once again this could be addressed through conditions by the ECU.

9.9.26 The PMP sets out that a total volume of peat to be excavated is 6,502m³ and this is to be reused in specific borrow pits where appropriate (adjacent to peat 0.5m in thickness) for access tracks. Peat re-use in tracks is restricted to where peat is currently is welcomed by SEPA. They summarise by stating that on the basis of the investigations undertaken and the commitment to tie in the peat in borrow pits into existing peatland, they have no concerns with the proposals in this regard. Notwithstanding this, to ensure the strategy remains appropriate and accords with good practice guidance, SEPA request a condition requiring the preparation and submission of an updated PMP for approval to the determining authority, in consultation with SEPA, prior to commencement of the development. They expect that this should also demonstrate how micro siting and other measures can be used to further minimise peat habitat disturbance.

9.9.27 In addition to the assessment above, consideration has been given to the potential effects associated with the construction and operation of both access route options noting that it is not certain at this stage which route will be used. The results in some aspects including the estimated peat excavation volumes are over-stated, given the numbers reflected in the assessment are based on cumulated figures for both access routes and a qualitative review has identified that the level of impacts and significance of effects would not be materially different depending on which route is selected and the conclusion of the assessment has also identified no significant residual effects when considering both access routes combined.

Private Water Supplies (PWS)

9.9.28 Chapter 9 of the EIA Report considers Private Water Supplies (PWS) and a bespoke PWS Assessment is provided through Technical Appendix 9.6 with this being a request at EIA Scoping Opinion stage by South Ayrshire Council. This assessment undertaken identifies one private water supply (PWS) catchment (associated with Glenalla Farm) which is considered as a sensitive receptor due to it being potentially connected to the existing western access track.

9.9.29 The sensitivity of the Glenalla Farm PWS abstraction catchment is defined as very high through the assessment given it is used as a potable supply. The magnitude of potential impacts on water quality due to sedimentation and erosion during construction are however deemed to be low for the section of access track widening due to minimal activities, no direct pathway being present and the distance between the source and receptor. Therefore, the significance of effect on this identified PWS is established as being minor/moderate and not significant in EIA terms.

9.9.30 South Ayrshire Council Environmental Health Service have reviewed this assessment to inform overall Council considerations on these matters. In the first instance, it is relevant to note that in their internal response, they raise no objections with the methodology, assessment, and the conclusions of the PWS assessments undertaken.

9.9.31 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 March 2021 (following the submission of the EIA Scoping Opinion for the proposed development). Given they were able carry out the risk assessments together, they advised that they were also able to agree at this early stage which PWS would require protection through mitigation. They go on to advise however that at this time in March 2021, there was no clear indication of the access road chosen to bring the delivery of component parts and construction material to the site entrance near Dyke Farm and that mitigation would need to be revisited and finalised once the layout was fixed.

9.9.32 The current application does provide formalised and definitive details of the proposed access arrangements albeit that two potential alternative access routes are considered. The Council's Environmental Health Service have advised that if the 'Western Access' route is progressed, mitigation will be required to the PWS for Glenalla Farm. This is due to the fact that Glenalla sits below one of the proposed entrance access roads to the site and the conditions relating to Glenalla will be to protect the very large, wide, diffuse catchment area from which the water for human consumption is drawn.

- 9.9.33 Beyond the safeguarding requirements for Glenalla specifically, the Council's Environmental Health Service point out that on the approach public road from Crosshill to either Glenalla or Dyke Farm areas, there are other PWS which may have their supply lines or infrastructure, or even their catchments which could potentially be affected through necessary upgrades to the roads, to enable the windfarm deliveries to take place. They anticipate that this could be in the form of road widening, strengthening, or creation of new corners or sections and given this, they have requested to apply the conditions relating to PWS as a measure to protect the continued quality and quantity.
- 9.9.34 The condition proposed by Environmental Health (should consent be granted) is presented as one condition with four separate components all of which stipulate different relatable requirements (termed 1a), b), c) and d)). Part 1a) relates to a requirement for a Water Management Plan specific to Glenalla covering water control and the means of drainage from all hard surfaces and structures within the site and including details for the means of protecting surface water/ground water and controlling surface water run-off. Part 1b) requires a site-specific hydrogeological report (including a field study and a conceptual site model) which contains a review of the risk to Glenalla private water sources, the catchment areas the supply that has the potential to be affected by the development. Part 1c) seeks a requirement for all PWS user properties and their source uptakes and catchment areas to be marked on a scaled maps to assess risk to catchment areas of the sources drawn from. This part of the condition also includes a requirement for a bespoke hydrogeological report to be produced in relation forestry removal, harvesting, compensatory planting or any other associated works in relation to forestry in relation to the development. Lastly, Part 1d) stipulates the requirement for an Emergency Action Plan to be submitted which clearly states who would be responsible, when they would be required to take action and where this would be implemented and what action and mitigation would need to be implemented for any emergencies arising (this will include emergency contact details to be provided to PWS users and South Ayrshire Council). Given the above, subject to additional mitigation being adopted, there are not considered to be any significant effects on PWS.

Ground Water Dependent Terrestrial Ecosystems (GWDTE)

- 9.9.35 Chapter 9 of the EIA Report includes an assessment of GWDTEs and assesses habitats indicative of GWDTE which were identified during National Vegetation Classification (NVC) work undertaken for the site and access track options. As part of these works, several potential moderately highly and highly GWDTEs were identified. The assessment, in accordance with SEPA's LUPS GU31 guidance (2017) on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems, sets out considerations of these habitats' hydrogeological regime to determine if these potential GWDTEs are truly groundwater dependent or not.
- 9.9.36 The findings as set out are that the majority of the potential GWDTEs identified onsite by the NVC survey were not considered to be groundwater dependent due to a variety of hydrogeological reasons with all of these detailed in the EIA Report. In turn, for the majority of the potential GWDTEs identified by the NVC survey, the assessment considers that these can be ruled out as being truly groundwater dependant due to the hydrogeological regime indicating that they are peatland, perched wetlands, or perched flushes on the upland areas of the development area dominated by precipitation and /or surface water rather than groundwater. In addition to this, the area is knolly with plateaus, hollows, and valleys which when underlain by relatively impermeable strata can become waterlogged. The assessment goes on to clarify that the areas that may have some groundwater influences are the discharge zones at lower altitudes and where glacial till is not present. These are mostly only located in areas associated with watercourses where alluvium is present, such as the Balbeg Burn, Palmullan Burn or the unnamed tributary to the Cawin Burn and will have a significant amount of surface water dependency also.
- 9.9.37 The only exception to this is one area around the existing forestry track to the north of Glenalla Farm which has the potential to have some groundwater and surface water influence based on the hydrogeological regime. The assessment confirms that no infrastructure other than access track and watercourse crossings are located within these areas that have been identified as having some likely groundwater influence and all track in these areas will be designed to allow the continuation of shallow groundwater and surface water flow so there will be no significant impact to any potential GWDTEs or wetlands.
- 9.9.38 SEPA have considered the GWDTE assessment and as part of their consultation response they advise that they have no concerns with the findings. As part of this however, and as per Section 9.7.94 of Chapter 9 of the EIA Report, they advise that where tracks cross this habitat (even if it's not classed as groundwater fed) that sub surface drains are implemented to maintain the hydrological connectivity to protect the wetland habitats. This could be addressed as a condition by the ECU. NatureScot have also not raised any objections to GWDTE in their consultation to the ECU.

Flood Risk

- 9.9.39 Flooding is considered as a specific topic area as part of Chapter 9 of the EIA Report. The assessment takes an informed position following a comprehensive review of all available SEPA flood maps and material and in the first instance it confirms that the proposed development infrastructure is not located within or in close proximity to a SEPA flood risk area. More specifically however, a review of the SEPA Flood Risk Management Mapping indicates that the Cawin Burn, Balbeg Burn and Palmullan Burn have associated areas of medium to high-risk fluvial flood zones along the alignment of the watercourses within the valley bottoms. In addition to this, the Water of Girvan to the east of the site and downstream of the site has a significantly wide medium to high-risk fluvial flood plain which is wider than 3m in places. The SEPA Flood Maps also indicate that there are small areas of potential surface water flooding within the site, mostly adjacent to watercourses, their headwaters, or depressions on the higher altitude sections of the site where water can accumulate.
- 9.9.40 Taking cognisance of these identified watercourses, the assessment goes on to consider the impacts of the proposed development in terms of land take in relation to these features. The assessment first states that the total footprint area of the proposed development (all infrastructure, both access track options and up to 2m of widening along each existing access track option) is 20.47ha and is unlikely to materially increase the probability of flooding elsewhere or significantly increase surface run-off rates providing appropriate drainage is installed. The assessment goes on to confirm that the proportion of total land take for each main catchment is less than 1.5 percent of each catchment area (Cawin Burn 0.41%, Balbeg Burn 0.46%, Palmullan Burn 1.21%, Genoch Burn 0.008%, Tairlaw Burn 0.004%, and Lady Burn 0.061%) and that the majority of the land take will be semi permeable hard standing for access tracks, crane pads, construction areas and remain as peat for the temporary laydown areas and reinstated borrow pits. The only permanent impermeable surfaces within each main catchment will be the turbine bases, the substation and energy storage facility, and the permanent meteorological mast and therefore the total proportion of impermeable land take for each catchment is negligible for all catchments, with the exception of the Palmullan Burn as the impermeable land take is calculated to be less than 0.5%.
- 9.9.41 The assessment concludes that flood risk sensitivity is considered low as the proposed development infrastructure will not be positioned within or near a flood plain, with the exception of access track crossings of main watercourses, and the proposed development design has minimised the amount of land take, hard surfacing, and watercourse crossings as far as reasonably practicable. As a result, the assessment concludes that it is unlikely that the proposed development would have an adverse impact on local fluvial flood risk given that the development area is located on hill slopes at the top of the catchment and on the basis that there are no known sensitive receptors in close vicinity to the development area. In any case, the assessment confirms that mitigation will be put in place to control and attenuate run-off during all phases of the proposed development.
- 9.9.42 SEPA have not raised in specific issues in their consultation response to the ECU with this particular element of the overall assessment. ARA, the Council's Roads Authority, also do not object to the application on flood risk grounds.

Water Environment and Quality

- 9.9.43 Under the Water Framework Directive (WFD), planning authorities have a duty to safeguard and seek improvements to the water environment. As a consequence, the potential impact of a wind farm construction on local hydrology requires to be assessed and protective and preventative strategies put in place to reduce potential impact. In this instance and as set out at various points in this report, there are a number of river catchments both within the site and in close proximity to it. The entire development area is within the Water of Girvan Catchment, mainly via the Palmullan Burn which runs through the development area and by other tributaries: the Genoch Burn in the east, the Pulreoch to the Tairlaw Burn in the extreme southeast, Balbeg Burn in the north, the Cawin burn in the extreme north and the Shiel Burn to the Lady Burn in the extreme west. The water quality in the surface watercourses on site is classified as, or generally considered to be, either good or high and many of the larger watercourses have the potential to support migratory fish. The Tairlaw Burn catchment is a surface water drinking water protection area (DWPA). Tairlaw Burn and its catchment are therefore highly sensitive and associated Scottish Water infrastructure is also present within the western section of the development area along the Water of Girvan flood plain.
- 9.9.44 The proposed development has the potential to impact on the water environment (including having effects on groundwater and surface water) at construction, operational and decommissioning stage. The potential effects are defined in the assessment section of this chapter, and this includes the excavations required to form the site infrastructure, erosion, and movement of sediment from transport activity, quarrying with the borrow pits, the related forestry felling and replanting, accidental spillages of pollutants and through the requirement to deliver and install water crossings. In response to this, a series of mitigation is proposed within the assessment including a drainage management plan, a water quality management plan, and the appointment of an ECoW. The assessment considers that through the good practice mitigation including water quality monitoring, an emergency response plan and a methods statement for additional runoff and sediment management for the PWS and Balbeg Burn track sections, no significant adverse direct and/or indirect effects on soil or water features from the proposed development are anticipated. In addition to these future preventative measures, it is relevant to note that the proposed development has sought to comply to a buffer zone from watercourses as part of the layout presented. More specifically, the assessment sets out that the layout of the development and the design of the infrastructure within the site has been located, in so far as possible, over 50m from main watercourses, with the exception of where tracks approach watercourse crossings, minor sections of Turbines 1 and 9, and some sections of track on the northern route.

- 9.9.45 Ayrshire Rivers Trust (ART) in their consultation response to the ECU have advised that they have reviewed the proposed recommendations set out in Appendix 9.5 'Watercourse Crossing' and that appropriate crossing types have been proposed for each watercourse albeit that they would recommend upgrading existing plastic pipe culverts where possible. ART request that if consent is obtained for the proposed developments, final plans and drawings for water crossings are submitted to them and that for all water crossings, continuous fish passage and continuous flow is provided at each water crossing ensuring no hanging culverts and that resident fish are removed from the site prior to any instream works being undertaken. In addition to this, ART advise that the monitoring programme to assess the impacts of construction works under the Construction Environmental Management Plan (CEMP) should include provision to monitor these water crossings as previous experience at similar developments have shown that this type of work can release substantial quantities of silt into the water environment. As noted in Chapter 18 Schedule of Environmental Commitments, ART welcome the continued monitoring of the fish populations during and after construction and that preconstruction surveys will also be undertaken to form a baseline on the current species and abundance. They also recommend that macroinvertebrate surveys are completed to compliment the water quality monitoring and electrofishing surveys and offer support in developing these alongside citing relevant Scottish Government and Marine Scotland Guidance which these surveys should follow.
- 9.9.46 ART note that Freshwater pearl mussel (FWPM) 'habitat surveys' were undertaken to inform the EIA however they highlight concerns that these species have been scoped out with minimal assessment and note there is no provision for FWPM pre-construction surveys in the Schedule of Environmental Commitments. They highlight that this is concerning given Appendix 8.3 Fisheries summarises 'there are records of FWPM in the upper reaches of the Water of Girvan' and the hydrological connectivity of the Water of Girvan to the watercourses that drain the site. ART wish to provide comments and assist with the proposed baseline survey methodology and survey site locations for fish and freshwater pearl mussels and highlight the need for robust protection of watercourses during forest felling activities and strict 'adherence to SF Guidelines e.g., to ensure protection and enhancement of the water environment during felling and construction'. This would be a matter for the ECU to consider.
- 9.9.47 As previously set out and summarised in the consultation sub-section of this Panel Report, SEPA initially issued a holding objection due to concerns and issues regarding the potential impacts on the water environment. At the time, whilst they advised that they did support the adoption of a 50m buffer between proposed infrastructure and watercourses shown, they raised concerns with the proposal to culvert minor drains in the vicinity of wind turbines 1, 2, 6 and 7 as described in Chapter 9 of the EIA Response which they assume was also the plan for the drain through the energy storage facility. They set out that it was unclear from the information provided whether these drains are holding water or whether they remain dry most of the year and as a result of this, they requested further information from the applicant to fully describe the nature of the proposed works in these locations and justify the intended approach of culverting the drains for land gain.

9.9.48 In an addendum response issued to the ECU in March 2022, SEPA confirmed the withdrawal of the initial holding objection. In this response they acknowledged the further information provided regarding the minor drains in the vicinity of wind turbines 1, 2, 6 and 7 as described in the EIA Report, and at the energy storage facility. Based on the information provided, SEPA confirm that they accept that all of the drains are man-made features of no or little ecological value and are therefore content with the proposal to either block or reroute the channels. To ensure that this occurs rather than culverting, they have asked that a condition is applied, if consent is granted, that requires the ditches in the vicinity of wind turbines 1, 2, 6 and 7 and at the energy storage facility be sensitively rerouted or blocked prior to work commencing on the related infrastructure. This condition would require to be attached alongside the other safeguarding conditions set out by SEPA in their earlier response which include the submission of a Peat Management Plan (PMP) and specific restrictions/limitations with regards to micro siting on site.

Borrow Pits

9.9.49 The Scottish Government included within Scottish Planning Policy (paragraph 243) a new approach to the use of borrow pits for wind farm construction. Borrow pits can be extensive areas within the site of a windfarm and are commonly used for the extraction of sand and aggregates used in the associated developments such as crane pads, compounds and the upgrade and delivery of access routes etc. The policy advice is to limit their use and only to permit them on site if there are significant environmental or economic benefits compared to obtaining material from local quarriers.

9.9.50 Appendix 3.2 of the EIA Report comprises of the Borrow Pit Assessment. It firstly sets out that the proposed development will have a requirement for approximately 82,435 m³ of construction stone material mainly for the construction of access roads, crane hardstandings and construction compounds. A desktop study and site walkover were carried out to identify potential sources of construction stone and suitable areas for stone extraction within the site to provide enough rock material for the project. Taking into consideration the existing environment, the geology of the area and the layout of the proposed development, five borrow pits were identified as being required. Of the five borrow pit search areas that have been identified, three of these are to be within the main development area and one each on the northern and western access route options. Depending on which access route option is selected, only one of the latter two borrow pit areas would be used. Key considerations in the selection process were rock quality and quantity, topography, haul distance, and potential environmental impacts. As part of the environmental considerations, areas of peat, potential habitat, cultural heritage, and watercourses were sought to be avoided with remaining available sites chosen based on the options with steeply sloping ground (to reduce the need for open excavation and unnecessary visual prominence) which also showed promise for the best quality of rock (assessed based on exposed rock at the surface). For the sites selected, the assessment confirms that intrusive investigation is required on all identified borrow pits to determine extent of rock, rock type and suitability for use as rock fill for the construction of access road, crane platforms and aggregate for use in concrete and the construction process for is detailed within the assessment. The assessment concludes that based on initial calculations it is expected that there will be sufficient material acquired on site to match the construction requirements.

- 9.9.51 The consideration and demonstration of the economic and environmental benefits for opting to use on-site borrow pits as required by SPP is considered to be limited within this assessment and information provided. This includes both in terms of the EIA Report but also the Planning Statement which does not make specific reference to the criteria of SPP in the relevant sub-sections of the document. The only specific reference to tangible benefits in the relevant appendix with this in relation to the haul distances sub-section. Benefits cited as part of this include the fact that on-site borrow pits would reduce the volume of site traffic/number of haul vehicles, air pollution and Health and Safety risk alongside the fact that the tracking of vehicles in periods of wet weather when plant movements would be kept to a minimum. Beyond this relatively brief summary, the assessment at Appendix 3.4 does not present any specific case in relation to demonstrating the significant environmental and economic benefits of opting for on-site borrow pits nor does it validate or demonstrate the extent of these benefits comparing the alternatives of obtaining stone material from local quarriers and other external and off-site resources.
- 9.9.52 Following discussions, the applicant has provided the Planning Authority with a supplementary statement (dated 9th May 2022) which seeks to respond to the absent information referenced above. Following review, it is considered that this is sufficient in providing a direct response to SPP. From understanding the level of stone material required in relation to the construction of the development (82, 435m³) it was accepted that from obtaining this on site, this will inevitably result in a significant reduction in HGV traffic using the small local roads in the vicinity of the site (which would be the case for either the 'Western Access' or the 'Northern Access'). The supplementary written submission builds on this and confirms that the nearest local active quarry is Barbae Quarry situated approximately 15km southwest to the application site and that this would involve increased traffic volumes on B and C class and unclassified roads specifically the B734 and B7035. Given alternative modes of transport such as rail or water transport are not possible for this development site the submission demonstrates that on-site borrow pits will have direct benefits for road user and pedestrian safety, air pollution, carbon emissions and general residential amenity and these are all noted.
- 9.9.53 Weight is also given to the Council's Environmental Health Service consultation response who have offered no objections to this aspect of the development proposal in their feedback to the Planning Authority. This is also the case for SEPA who have not raised any objections to the borrow pit locations either in their response to the ECU. In addition to both of these, it is also noted that ARA in their consultation response to the Planning Authority have specifically highlighted their support for the use of borrow pits within the curtilage of the site alongside any other efforts to minimise HGV movements associated with the development itself.
- 9.9.54 On balance, whilst the original assessment of borrow pits is considered to fall short in terms of demonstrating the specific requirements of SPP, the combination of the supplementary statement provided by the applicant, the available factual information within the original EIA Report assessment document combined with position as set out by relevant consultees to the process allows the principle of on-site borrow pits to be considered an acceptable and justified approach in this case.

Conclusions on Aviation, Defence, Broadcasting, Cumulative Impact and Other Matters

- 9.9.55 In relation to aviation matters, the developer has not demonstrated that their development does not impinge on the current operation of Glasgow Prestwick Airport as an agreed mitigation is not in place and available and maintained for the lifetime of the windfarm. Consequently, it is considered that the proposed development is not in accordance with LDP Policy Wind Energy Criterion (f).
- 9.9.56 The assessment of the proposal under Criteria (a) and (b) (landscape and Visual Impact) above has identified adverse cumulative impact on the landscape character of the immediately adjoining Landscape Character Types (Rugged Uplands, Lochs and Forest LCT and Intimate Pastoral Valley LCT) and the associated landscape designations of Merrick Wild Land Area, High Carrick Hills Local Landscape Area and Water of Girvan Local Landscape Area. Cumulative adverse visual impact has also been identified on popular walking routes within the High Carrick Hills LLA, from Craigenower Hill near Straiton as well as from more informal walking routes around Pinbreck Hill and Rowantree Hill which lie on the southern outer edge of the Stinchar Valley. Similar Cumulative adverse visual impacts are also anticipated from the Straiton to Newton Stewart minor road. The combined visual effects of the proposal and the application stage Carrick Windfarm would also exacerbate the adverse impact on Residential Visual Amenity at Tairlaw Toll Cottage.

Other Significant Policy Considerations

National Climate Change Policy, Energy Policy and Planning Policy:

- 9.9.57 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), Consultative Draft Onshore Wind Energy Statement Refresh 2021, and the Scottish Climate Change Plan 2018 to 2032 (2020 updated).

National Planning Policy Framework 3 (June 2014):

- 9.9.58 The vision set out in NPF3 includes a growing low carbon economy. The greenhouse gas reduction targets set out in the Climate Change (Scotland) Act 2009 are integrated into national planning policy. The PPF3's policies address steps required within spatial planning to achieve the targets not only in energy generation, but in a range of sectors including land use management, waste management, urban infrastructure, sustainable water management, peatland restoration and transport. NPF3 refers to the spatial framework provided by SPP for wind-energy development as guiding new wind development to appropriate locations, taking account of important features such as Wild Land. It encourages diversification in the energy sector and indicates the Government's expectation that the place of onshore wind will be overtaken by a growing focus on marine-energy opportunities. Members should note that NPF3 is currently being reviewed and a "Position Statement on NPF4" was published in November 2020. The Position Statement provides an indication of the direction of travel. It is important to note that the Position Statement is not a policy document and is not a material consideration in the assessment of the current proposal.

Scottish Planning Policy (June 2014):

9.9.59 Includes among the four outcomes it seeks that Scotland should be a successful, sustainable place, and a resilient place. It incorporates statutory targets for reduction of carbon emissions. In this context it sets out the renewable energy targets and the principles for spatial frameworks and it also makes it clear that the individual merits of a wind-energy proposal require to be carefully considered against the list of considerations set out in paragraph 169. This is in line with the principle that sustainable growth should ensure the right development in the right place.

Conclusion on National Policy:

9.9.60 NPF3 and SPP are the primary statements on national planning policy for onshore wind. Whilst these documents predate more recent policies/strategy documents, advice and targets relating to climate change, there is no indication from the Scottish Government that the national policy move from low carbon to net-zero carbon has changed the decision-making criteria or parameters for onshore wind in individual cases. The move to a net zero target has the effect of altering the requirements imposed on the Scottish Ministers in relation to electricity generation and also to the concomitant decarbonisation of heat and transport. There has been and continues to be strong support for onshore wind but only if it is the right development in the right place. There is nothing expressed in the Climate Emergency Declaration, the national strategies for climate change and renewable energy that would indicate a departure from policy as set out in NPF3 or SPP. Whilst the National Planning Framework is currently being reviewed, the Position Statement issued on the 24th November 2020 makes it clear that NPF3 and SPP remain in place until NPF4 is adopted by Ministers. As with the assessment against the provisions of the LDP, it is considered that the proposed development is therefore not fully in accordance with Scottish Planning Policy.

Control of Woodland Removal Policy 2019 (Scottish Forestry revised 2019):

9.9.61 This sets out Scottish Ministers policy on woodland removal in Scotland. The guiding principles behind the policy include a strong presumption in favour of protecting Scotland's woodland resources and only allowing woodland removal where it can achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance.

9.9.62 In this instance, the EIA Report proposes compensatory planting as mitigation to offset felling requirements to facilitate the site access to the development. Scottish Forestry in their consultation response set out that they have no objections to the proposed development subject to conditions. They note the relatively modest scale of the felling requirements which are concentrated closer to the access route options that form part of the overall development proposal. Whilst no specific details have been submitted for compensatory planting as part of the assessment undertaken, the commitment to undertaking this has been set out and this matter could be dealt with by way of a planning condition, should consent be granted, requiring details of compensatory planting to be agreed in conjunction with Scottish Forestry.

Benefits of the Proposed Scheme

9.9.63 The EIA Report (Chapter 13) and the Planning Statement (Section 5) set out that the proposed development would deliver and contribute towards the following key benefits:

- The proposed development would contribute to the attainment of the UK and Government policies of encouraging renewable energy developments; and in turn contribute to the achievement of UK and Scottish Government targets for renewable electricity generation. The proposed development, with an installed capacity of approximately 59.4 MW, would make a valuable contribution to meeting such targets.
- The proposed development would help advance the Governments policy objective in terms of its long-term commitment to the decarbonisation of electricity generation. More specifically, the proposed development is expected to save approximately 33,000 tons of carbon dioxide per year, resulting in a total saving of 1.0 million tonnes over the 30-year lifetime, through displacing carbon-emitting generation.
- The proposed development would have a total capacity of 59.4 MW, generated by nine 6.6 MW turbines which together would produce around 138 GWh/year of clean power which would generate enough electricity to supply approximately 40,500 average Scottish households.
- The proposed development will increase indigenous production of renewable energy in Scotland while contributing towards reducing the country's reliance on foreign fossil fuels, generating wealth from natural resources, and improving the country's energy security.
- The proposed development comes a time when the country requires to meet the demand for the transition to heat homes and the demand for electricity to increase with the move to electric vehicles. The proposed development will contribute towards providing additional generation capacity to meet the demands from new renewable sources.
- The proposed development will deliver approximately £297,000 per annum in Community Benefit Funding, equating to £8.9m in total over its 30-year operating life.
- The Applicant is committed to exploring the potential for community investment with the proposed development, creating the opportunity for local community groups to explore shared ownership of the wind farm.
- Total development and construction expenditure of the proposed development over its 30-year lifetime is estimated at approximately £70.9 million, and each year operations and maintenance expenditure could amount up to £1.5 million. The Applicant is committed to a local supplier approach and confirm that they will endeavour to source supplier contracts locally where possible, sustaining local businesses and providing employment opportunities for local people.
- It is anticipated that the proposed development during its construction and development could generate up to £4.4 million Gross Value Added (GVA) and support 62 years of employment in South Ayrshire and £16.4 million GVA and 225 years of employment across Scotland.

- It is anticipated that the proposed development during its operation could generate £0.4 million GVA and support five jobs in South Ayrshire each year and £0.6 million GVA and eight jobs across Scotland.
- The proposed development would contribute an estimated £0.4 million per annum to public finances by way of non-domestic rates.
- The proposed development site sits within a landscape of operational, consented and in planning wind farm developments, which benefit from a strong wind resource, strong access to the A77 trunk road and a proximity to electricity network. It is therefore considered to represent a suitable site for wind energy development which utilises some existing site infrastructure and recognises the accepted principle of wind energy generation within the local landscape.
- The proposed development will be capable of meeting targets set by the Scottish Government for the onshore wind industry in Scotland to start building wind farms without public subsidy.

10. Conclusions

- 10.1 In conclusion, having considered the applicant's EIA Report and supporting documentation 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 an objection be submitted to the Scottish Government.

11. Recommendation

- 11.1 It is recommended that South Ayrshire Council submit an objection to the Scottish Government for the reasons a), b), c), d) and e) listed below. It is also recommended that comment f) below is submitted to the Scottish Government.
- 11.2 That the Regulatory Panel 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 to Paragraph 2, Schedule 8 of the Electricity Act 1989).

Reasons For Objection:

a) Landscape and Visual

That the proposed development is contrary to South Ayrshire Local Development Plan policies 'Wind Energy – Criterion a), b) and c)', 'Sustainable Development' and 'Landscape Quality' and South Ayrshire Supplementary Guidance on Wind Energy and SALWCS on the basis of significant adverse landscape and visual effects due to the scale and positioning of the proposed turbines on their own and in combination with other proposed/application stage wind farms in the surrounding area. It is not considered that the significant adverse landscape and visual effects of this wind farm could be mitigated by reducing the size and or number of turbines, with the location being inappropriate given the sensitivity of nearby landscapes and designations. There is no reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

b) Landscape and Visual – Aviation Lighting

That the proposed development is contrary to South Ayrshire Local Development Plan policies 'Wind Energy – Criterion a) and b)' and LDP Policy 'Air, Noise and Lighting Pollution' and the Supplementary Guidance: Dark Sky Lighting by reason that the applicant has not demonstrated that aviation lighting associated with the turbines would not introduce intrusive and prominent lights both on their own and in combination with other proposed/application stage wind farms into an area important for dark skies, thus adversely impacting upon views from the Merrick Wild Land Area and the Galloway Dark Sky Park. The required aviation lighting will extend the adverse landscape and visual effects into the darker hours and whilst mitigation for aviation lighting is proposed, only limited weight can be attached to the particular solution proposed in the application due to the lack of endorsement by the relevant aviation authority. There is no reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

c) Landscape and Visual – Tourism and Recreation Resources

That the proposed development is contrary to South Ayrshire Local Development Plan policies 'Wind Energy – Criterion a), b) and c)', 'Sustainable Development' and 'Landscape Quality' and South Ayrshire Council Supplementary Guidance on Wind Energy and SALWCS on the basis of significant adverse landscape and visual effects due to the scale and positioning of the proposed turbines and the associated impacts of these effects on the tourism and recreational resource of the locality including the; Merrick Wild Land Area, Galloway Forest Park, The Dark Sky Park, High Carrick Hills Local Landscape Area, the Water of Girvan Valley Local Landscape Area and important viewpoints including views from roads and footpaths within the upper Girvan valley between Straiton and Tairlaw (where this proposal would form a dominant and highly feature) and views from the popular ridges and summits of the high Carrick Hills, including from the Corbett of Shalloch on Minnoch and Cornish Hill and also from Craigenower Hill (Colonel Hunter Blair monument) near Straiton. This proposal would also be seen together with the operational Dersalloch Windfarm in views from settlement and from Core Path SA47 Bennan Walk which is aligned in this valley as well as views from more informal unpromoted but popular walking routes around Rowantree and Pinbreck Hills which lie on the southern edge of the Stinchar valley which would also be significantly affected. There is no reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

d) Landscape and Visual – Residential Visual Amenity Impact

That the proposed development is contrary to South Ayrshire Local Development Plan policies 'Wind Energy – Criterion c)', 'Sustainable Development' and South Ayrshire Council Supplementary Guidance on Wind Energy by reason that the proposed development would have a significant and overbearing impact upon the residential visual amenity of a nearby residential dwelling at Tairlaw Toll Cottage. There is no overriding reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

e) Glasgow Prestwick Airport

That the proposed development is contrary to South Ayrshire Local Development Plan policies 'Wind Energy – Criterion f)', 'Sustainable Development' and South Ayrshire Council Supplementary Guidance on Wind Energy on the basis that the developer has not demonstrated at the time of consideration of the application and finalising the Council's recommendation that their development does not impinge on the current operation of Glasgow Prestwick Airport as an agreed radar mitigation is not in place and available and maintained for the lifetime of the windfarm. There is no reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

Comment to Scottish Government

Conditions

Should the Scottish Government be minded to grant this application, South Ayrshire Council requests that it be consulted on proposed conditions prior to the grant of the permission. In addition to the mitigation measures identified within the EIA Report that require to be conditioned alongside those conditions sought by consultees in response to the ECU, the following additional matters have been identified through the Council's internal assessment and consultation process. From a Council perspective, it is fundamental that these matters are considered and attached given that in most cases, the acceptability of the proposed development as set out by consultees in their response is predicated on the understanding that the conditions they have stipulated, would be included as mitigation. The topic areas which will require to be addressed through conditions are summarised in the following paragraph:

In relation to core paths and rights of way, conditions which include specific measures to ensure that the ones which pass directly through the site are not obstructed for the duration of construction period of the development would require to be included. In addition to this, the Council would also seek to ensure that signage improvements on these recreational routes are secured in line with the requests and recommendations of the Council's Outdoor Access Officer. With regards to PWS, the Council's Environmental Health Service advise that conditions will need to be in place to secure additional safeguarding measures to protect the water supply to the property of Glenalla should the 'Western Access' be progressed for the proposed development. The Council's Environmental Health Service have also requested conditions relating to shadow flicker and dust mitigation during the construction stage and these would also need to be attached. On the subject of noise impacts; there will be a need for conditions which cover the relevant mitigation set out by ACCON UK Limited which seeks to govern controls on construction and operational noise limits, the control of amplitude modulation and also vibration and air over-pressure from blasting. West of Scotland Archaeological Service (WoSAS) have requested a condition relating to providing a programme of archaeological works and a written scheme of investigation to be agreed with them. The Council's Biodiversity and Ranger Services have requested specific conditions in the interests of curlews and ground nesting upland waders including a requirement for mitigation where the development affects their territory/habitat. Finally, the Council's Road Authority, Ayrshire Roads Alliance have requested a suite of conditions relating to access construction, limitations on abnormal load and construction traffic movements, inter-visible passing places (U27 and U31 respectively), visibility splays, discharge of water, positioning of turbines from the public road, Construction Traffic Management Plan, swept path analysis, structural assessments, and inspections to be attached.

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. Scottish Planning Policy (SPP)
5. Historic Environment Scotland Policy Statement
6. Managing Change in the Historic Environment – Setting
7. Planning Advice Note 2/2011 ‘Planning and Archaeology’
8. Adopted South Ayrshire Council Local Development Plan
9. Proposed South Ayrshire Local Development Plan 2
10. South Ayrshire Council Supplementary Guidance: Wind Energy (Adopted 2015)
11. South Ayrshire Landscape Wind Capacity Study 2018
12. South Ayrshire Local Landscape Designations Review (2018)
13. South Ayrshire Supplementary Guidance: Dark Sky Lighting (Adopted 2016)
14. SNH Guidance – Siting and Design of Windfarms 2017, V3a
15. Residential Visual Amenity Assessment Technical Guidance Note 2/19 (Landscape Institute)

Person to Contact:

Mr Ross Lee, Supervisory Planner (Place Planning) - 01292 616 383



REPORT BY PLACE DIRECTORATE
REGULATORY PANEL: 23 JUNE 2022

SUBJECT:	CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 APPLICATION UNDER SECTION 36 OF ELECTRICITY ACT 1989 (AS AMENDED) FOR CONSTRUCTION AND OPERATION OF CARRICK WIND FARM COMPRISING UP TO 13 TURBINES UP TO 200 METERS TO BLADE TIP (WITH GENERATING CAPACITY OF CIRCA 86MW) AND PROPOSED ENERGY STORAGE FACILITY (CIRCA 20MW CAPACITY) AND ASSOCIATED INFRASTRUCTURE
REFERENCE:	22/00094/DEEM

1. Purpose of Report

- 1.1 South Ayrshire Council has been consulted by the Scottish Government, under section 36 of the Electricity Act 1989, on an application by Scottish Power Renewables UK Ltd for the erection of a windfarm and associated ancillary development at Carrick Wind Farm, Carrick Forest, 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 25 January 2022.
- 1.3 The Planning Service currently has delegated authority to respond to these consultations, but typically chooses not to do so without first referring the matter to Regulatory Panel due to the large scale of the proposals and the community interest.
- 1.4 The applicant has agreed to a time extension to 30 June 2022 for the Council to make its response. It is imperative that the Council responds within the agreed time period, or its statutory rights would be affected.
- 1.5 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.

- 1.6 Under the Electricity Act 1989 schedule 8, part 2, paragraph (3) if the Planning Authority notifies the Scottish Ministers outwith the time limit that has been agreed (i.e., 30 June 2022 in this case), then the Scottish Ministers may disregard the notification to object.
- 1.7 On the basis that a Planning Authority were not to respond by the agreed date then there is no mandatory requirement for a public inquiry to be held.

2. Recommendation

It is recommended that the Regulatory Panel:

- **submits this report to the Scottish Government as an *objection* to the proposed wind farm**
- **approves delegated authority to the Director of Place to conclude planning conditions with the Energy Consents Unit should the Scottish Government be minded to grant consent.**

3. Background & Procedural Matters

- 3.1 On 23 December 2021, Scottish Power Renewables UK Limited 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 comprising up to 13 turbines with an anticipated height at tip of 200m located within the Carrick Forest, approximately 6km south of Straiton. 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.
- 3.2 The Scottish Government formally consulted the Council on the proposed development on 25 January 2022, with an original deadline for response on the application of 27 May 2022. The Planning Service made a request for the time period to respond to be extended to 30 June 2022.
- 3.3 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.
- 3.4 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 planning authority, Scottish Natural Heritage, Scottish Environment Protection Agency, and Historic Environment Scotland.
- 3.5 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.
- 3.6 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 consultation in due course.

4. Development Proposal

4.1 The proposed development comprises of up to 13 wind turbines. Each turbine would be a three bladed horizontal axis type machine with a generating capacity of circa 6.6MW and a maximum blade tip height of 200m. Combined, the wind turbines would have an installed generating capacity of 86MW. The proposals include an energy storage facility (battery) with a capacity of circa 20MW. The full package of development proposals include:

- Up to 13 wind turbines
- Wind turbine foundations (30m X 30m/860m³)
- Crane hardstanding and laydown areas (34m X 94m)
- Transformers/switchgear housing located adjacent to wind turbines
- 16.2km of access tracks (upgrade of existing and new tracks with a nominal width of 5.5m)
- Watercourse crossings (upgrading of 5 existing crossings and 2 new crossings in the form of circular culverts. Open-bottom arch culverts or circular culverts proposed across existing, unmapped watercourses - required during track construction)
- Underground cabling linking turbines to substation (following route of access tracks)
- Communication mast
- CCTV masts
- Up to four borrow pit search areas
- LIDAR compound (a means of measuring wind speeds)
- Substation compound and associated storage infrastructure (189m X 126m)
- Two temporary Scottish Power Renewables construction compound areas (100m X 100m and 30m X 30m)
- One temporary Scottish Power Energy Networks construction compound (60m X 60m)
- Restoration of 28ha of bog (through commercial forest removal)

4.2 It is proposed that the northern temporary SPR construction compound be retained and used as a permanent car park for recreational users upon completion of the construction phase.

4.3 The applicant is seeking permission in perpetuity for the wind farm. The anticipated operational life is 40 years.

4.4 The site is located within a commercial forest plantation (Carrick Forest) located circa 6km to the south of Straiton. The site covers an area of approximately 827 hectares and the land use is predominantly commercial forestry with some areas of cleared plantation. The site forms part of the upland plateau area within the range of foothills between the Stinchar Valley and the Water of Girvan Valley that extend from Ballantrae to Straiton. The site lies at an altitude of between 243 and 430 metres above ordnance datum (AOD). The highest point is Garleffin Fell, the summit of which lies within the western part of the site. There are no residential properties within the site, however, there are 5 houses within 2 km of the nearest wind turbine, the closest of which is 1.04km from the nearest turbine. The land cover is predominantly commercial conifer plantation with blanket peat and other peaty soils present throughout the site. Peat is notable in open areas, such as forest rides, clearings and in the vicinity of surface water bodies. The depth of peat varies across the site and the average peat depth is 0.99m. Trees will be permanently cleared around the base of each turbine and from an area to be used as a habitat management area resulting in the loss of 97.42ha. A further 126ha of productive conifer plantation will be subject to advanced felling and replanting. Four borrow pit search areas are proposed.

- 4.5 The site is located immediately to the south of the proposed Knockcronal Wind Farm which comprises nine turbines with a maximum blade tip height of 200m (application stage). The current proposal and Knockcronal occupy the same upland plateau. The proposed Craiginmoddie wind farm lies approximately 1.5km to the west, also within the same upland area as the proposed wind farm. Members will recall their decision to object to the Craiginmoddie Wind Farm at the Regulatory Panel meeting held on 3 February 2022. To the west of the proposed Craiginmoddie wind farm is the operation Hadyard Hill wind farm and further west of that is the operational Assell Valley wind farm. Taken together, these developments would form a grouping of wind turbines within the upland area between Pinmore in the south and Straiton in the north.
- 4.6 It is proposed that the wind turbines will be delivered from the King George V Dock in Glasgow. The wind turbines would be transported from Glasgow via the M8 before being moved south along the M74/M6 to the A75 and U52w, then on the A714 where they would travel north and onto the C1. Two separate access points are proposed off the C1 to the south of the property "Tallaminnoch" which will utilise existing forest tracks. The access tracks within the site will run from the eastern entrances and connect all wind turbine locations. Approximately 7.4km of new access tracks would be constructed and approximately 8.6km of existing forestry track would be upgraded. Five existing watercourse crossings may require to be upgraded and two new crossings would be required. All water crossings will take the form of a circular culvert. Numerous unmapped minor water courses would also require to be spanned during track construction and these would be formed as open-bottom arch culverts or circular culverts.

5. Consultations

- 5.1 Consultations on this application are undertaken by the Scottish Government. Comments arising from 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 Statutory Consultees

- 5.2.1 SEPA: - **Holding Objection** pending submission of further information to demonstrate excavation of deep peat has been minimised.
- 5.2.2 Nature Scot: - **Object on the grounds of significant adverse impact on the Merrick Wild Land Area**
- 5.2.3 NATS Safeguarding: - **object** to the proposals noting that the development is likely to cause false primary plots to be generated at the Lowther Hill radar. A reduction in the radar's probability of detection for real aircraft is also anticipated.
- 5.2.4 Historic Environment Scotland: - do not object.
- 5.2.5 Scottish Water: - have no objection
- 5.2.6 Dumfries & Galloway Council: - no comments
- 5.2.7 Neighbouring East Ayrshire Council: - do not object but request consideration of the cumulative impact on the Merrick Wild Land Area resulting from the current proposal and adjoining proposals. EAC also request that they be notified of any change to the proposed aircraft activated aviation lighting scheme, should the objections raised by the aviation industry be sustained.

5.3 Internal Scottish Government Advisers

- 5.3.1 Scottish Forestry: - Do not object but note that 97.2 ha of woodland will be permanently lost due to the construction of the wind farm. To comply with the Scottish Government's Control of Woodland Removal Policy, the woodland loss must be compensated by planting an equivalent area of woodland elsewhere. This is recognised in the EIA however the location of the compensatory planting has not been identified. The developer would require to plant 97.2 ha of productive woodland. There is a requirement for a minimum of 10% open ground and 5% native broadleaf species. The total requirement for compensatory planting will therefore be greater than the net woodland loss.
- 5.3.2 Ironside Farrar (Peat Slide Risk Assessment): - no response at the time of writing.
- 5.3.3 Transport Scotland: - Have no objection in terms of the impact on the trunk road network, subject to conditions concerning approval of the abnormal load route and related signage.
- 5.3.4 Crown Estate: - no response at the time of writing.
- 5.3.5 Visit Scotland: - do not object but request that the impact of the development on tourism be assessed through a tourism impact assessment

5.4 Non-Statutory Consultees

- 5.4.1 ScotWays: - **Holding Objection**. Note that the position of Turbine 6 is close to Right of Way SKC7 and that the proposed turbine access track appears to follow the route of the Right of Way. ScotWays advised at the pre-application stage that the turbines are set back 200m (blade tip height) from the rights of way and Core Paths that traverse the site. However, the scale of mapping provided is insufficient to allow measurement of the separation distances and additional information is requested in this regard.
- 5.4.2 Galloway & Southern Ayrshire Biosphere Partnership Board: - **object** on the grounds of landscape and visual effects on the core and buffer area of the UNESCO Biosphere and the consequential adverse effect on local tourism and sense of place.
- 5.4.3 Glasgow Prestwick Airport: - **object** on the grounds of potential adverse effects both as a consequence of the proposed Carrick Wind Farm and other operational, consented, and proposed wind farms within the vicinity of Carrick, on the airport's primary surveillance radar, secondary surveillance radar and the VHF/UHF Communications Equipment. The Airport also notes the operational risks associated with the proposed aviation lighting mitigation plan which requires an Aircraft Detection Lighting Scheme that is dependent upon Electronic Conspicuity.
- 5.4.4 Glasgow Airport: - do not object.
- 5.4.5 RSPB: - do not object and support the proposed osprey monitoring programme to validate the collision risk assessment in the EIA. RSPB also support the proposed peatland restoration.
- 5.4.6 Saving Scotland's Red Squirrels: - do not object
- 5.4.7 Ayrshire Rivers Trust: - do not object subject to conditions regarding water crossings, CEMP, and protection of water voles.
- 5.4.8 Joint Radio Company: - do not object

- 5.4.9 South Ayrshire Council Environmental Health: - do not object subject to conditions
- 5.4.10 West of Scotland Archaeology Service: - do not object subject to conditions
- 5.4.11 British Horse Society: - do not object.
- 5.4.12 OFCOM: - do not object
- 5.4.13 Coal Authority: - do not object
- 5.4.14 Mountaineering Scotland: - do not object
- 5.4.15 British Telecom: - do not object
- 5.4.16 Defence Infrastructure Organisation: - do not object subject to conditions requiring an aviation lighting scheme and submission of the 'as-built' turbine coordinates.
- 5.4.17 Ayrshire Roads Alliance: - no objections subject to conditions.

5.5 Community Councils

- 5.5.1 Barr Community Council: - **object** on the grounds of insufficient community engagement and the natural environment, particularly in relation to the cumulative effects of all existing, proposed, and potential wind farms and other large-scale changes locally and regionally. In terms of detail, the community council note that the aviation safety lighting will impact on the Galloway Dark Skies Park and the sense of isolation experienced within the Merrick Wild Land Area. The CC do not accept the conclusion in the Socio-Economic assessment in the EIA that the effect of the development on tourism will be negligible. The CC consider that the conclusions of the EIA in relation to Residential Visual Amenity and Landscape Impact are disputable. The CC note that access to the Carrick Hills is one of the benefits of living in South Ayrshire and the development, in combination with other wind farms will reduce the untouched character of the terrain as wind farms have extended out to form a near continuous chain across the Ayrshire Hills. The CC consider that the impact on walkers is under-estimated as it does not consider the complete walking experience. There is no evidence of a cumulative assessment of the impact of wind farm development and other large-scale land use developments (such as large-scale afforestation) on the water environment.

6. Applicant's Supporting Information

- 6.1 **Environmental Impact Assessment Report:** Presents the findings of the Environmental Impact Assessment carried out in accordance with the Electricity Works (EIA) (Scotland) Regulations 2017. The EIA Report (hereafter referred to as EIAR) describes the existing environmental conditions to identify sensitive assets or features and the methods used to assess whether environmental effects either beneficial or adverse are predicted due to the construction and operation of the development. Where appropriate it also sets out mitigation measures designed to prevent, reduce and if possible, offset any significant adverse environmental effects. Following consideration of mitigation measures, any remaining residual effects are also presented. The EIAR also presents an assessment of the cumulative effects that may occur in combination with other developments. No significant residual effects are predicted for most environmental topics with the exception of potential landscape & visual and cultural heritage effects. The significant effects on landscape character and visual amenity would be relatively contained to within 6km. The surrounding upland landscape and foothills will help screen distant views of the proposed development from areas such as the Galloway Forest Park and the Merrick Wild Land Area. The setting of one schedule monument is predicted to be adversely impacted. The residual adverse effects are balanced by the climate change benefits of generating renewable electricity. In addition, the applicant is committed to providing community benefits and exploring opportunities to provide enhancements as part of the development.
- 6.2 **Carbon Balance Assessment (appendix 15.5):** Presents the outcome of an assessment of the likely carbon savings resulting from the development of the wind farm using Nature Scotland's Carbon Calculator tool. The assessment assumes that the renewable energy produced by the development will replace electrical energy generated by fossil fuel plants, thus reducing the volume of CO₂ emissions resulting from conventional electrical power generation. At the same time, it is recognised that the construction, operation and decommissioning of wind farms results in emissions of carbon dioxide and there is therefore a balance between emissions saved and emissions generated. The estimation of CO₂ emissions includes those arising from the direct loss and drying out of peat soils (because of land drainage). Further losses resulting from the permanent removal of woodland have been included. The emissions of CO₂ are balanced against improved carbon sequestration resulting from the proposed bog restoration on the site of the cleared plantation woodland and the restoration of peat following the decommissioning of the windfarm. The carbon calculator predicts that the proposed development will 'pay back' the carbon emissions associated with its construction, operation and decommissioning in 3.5 years. Assuming a 40-year wind farm life, this equates to an overall carbon saving of 11 times the carbon emitted.
- 6.3 **Soil and Peat Management Plan (appendix 6.2):** The report examines the volume of soil and peat likely to be excavated during the construction process and the potential for minimising excavation and identifying volumes for re-use. All of the excavated soil and peat will be reused within the site. Approximately two thirds of the soil and peat are to be used in the reinstatement of the borrow pits, with the balance being used to form verges along the access tracks and to reinstate the temporary hard standings such as the crane pads. Should not all the borrow pit search areas be utilised, the depth of peat could be increased. Furthermore, up to 16,500 m³ of any excess peat could be used to restore two existing borrow pits within the site. The soil and peat management plan identifies opportunities to minimise the volume of soils and peat excavated through careful micro-siting of infrastructure to avoid deeper areas of peat. The proposed Construction Environmental Management Plan will detail locations for temporary storage and an outline programme indicating the duration and quantity of stored peat and measures to mitigate both the time and volume of temporary storage and to prevent sedimentation of any watercourse or waterbody. Where practical, excavated peat would be immediately be used locally for reinstatement and/or landscaping. Soil mounds and excavation depths would not exceed 2.0 metres.

- 6.4 **Peat Landslide Hazard and Risk Assessment (appendix 6.1)** presents the findings of a peat landslide hazard risk assessment which follows the Scottish Government best practice guidance for identifying, mitigating, and managing peat landslide hazards and their associated risks. The study concludes that there are no areas within the site with a risk greater than “low risk” and the majority of the site was evaluated as “negligible risk” or no peat. Further geotechnical investigation is proposed as part of the site investigations, which would take place prior to construction and inform the detailed design of the development, along with detailed mitigation.
- 6.5 **Outline Habitat Management Plan (appendix 7.6)** The Outline Habitat Management Plan defines the aims and objectives of the land management that will be implemented on site to achieve the purpose of mitigating the adverse impacts that the windfarm may have had, particularly in relation to peatland. The measures include restoration of an area of degraded peatland following permanent forest clearance works. The work includes removal of any conifer regeneration and measures to raise the water table, including wave damming. The plan also includes a methodology and prescriptions for habitat management measures, details of regular monitoring using fixed quadrat locations and contingency measures should monitoring reveal unfavourable results.
- 6.6 **Bat Mitigation and Monitoring Plan (appendix 7.4)** Describes the mitigation measures, method of implementation, auditing and monitoring programme which would be implemented during the operational phase of the development to reduce the risk to bats.
- 6.7 **Planning Statement:** The statement covers the benefits of the scheme, the legislative regime, energy policy, national policy, environmental considerations, and the Development Plan. In support of the proposal, the Statement refers to the First Minister’s Climate Emergency declaration in April 2019, the legally binding emissions reductions targets established through the Climate Change (Emission Reduction Targets) Scotland Act 2019, the support for significant additional renewable energy generation contained in the Energy White Paper 2020 and the updated Climate Change Plan published in December 2020. More specifically, the Statement refers to the Onshore Wind Policy Statement (OWPS) Refresh 2021 and the commitment to securing an additional 8-12 GW of installed onshore wind capacity by 2030. The Statement refers to the Europe wide shift towards taller wind turbines and identifies the benefits of using fewer more efficient machines including less land-take and potentially less peat disturbance, less concrete and less tree removal. The applicant’s view is that the OWPS supports the use of fewer larger wind turbines, as proposed under the current application. It is stated that the applicant has upheld their obligations under Schedule 9 of the Electricity Act 1989 to have regard to the desirability of preserving natural beauty, conserving listed natural heritage interests, protecting sites, buildings, and objects of architectural or historic interest and impact on fisheries and fish stocks. The design of the proposed development has evolved through an iterative process that has reduced or otherwise mitigated the likely significant adverse effects. The EIAR concludes that the predicted environmental effects are not significant other than that relating to localised (within 6 km) landscape and visual effects and a significant effect on the setting of one heritage asset. The Statement refers to the need to balance, within the Planning system, the adverse effects of a development proposal with the benefits. In support of the proposal the Statement highlights that the predicted effects will not be experienced within any international or national designations such as National Parks or National Scenic Areas and states that the site is within an area which is suitable for wind farms in the context of Scottish planning policy. The EIAR further concludes that the urgent need for renewable energy developments, the benefits of the development will bring in terms of meeting net-zero targets and investments it will bring into the green economy, the significant effects are considered to be acceptable and outweigh any adverse impacts.

- 6.8 **Outline Construction Environmental Management Plan:** Sets out the typical contents for a site Construction Environmental Management Plan. The document would establish who is responsible for each aspect of the management of the construction process to ensure protection of the natural environment. Typically, this would cover surface water management; oil and chemical delivery and storage; wastewater and water supply monitoring and control; waste and resource management; traffic and transport, air, noise, land management including archaeology, flora, and fauna; environmental incident response and method statements & risk assessments.

7. Planning History

- 7.1 There are no previous planning applications or Section 36 wind farm proposals within the site boundary.
- 7.2 The land immediately adjacent to the northern site boundary is the subject of a current consultation under Section 36 of the Electricity Act for Knockcronal Wind Farm (Council reference 21/00993/DEEM) and a previous Section 36 consultation for the proposed Linfairn wind farm (13/01130/DEEM). The current Knockcronal application is for 9 turbines up to 200m to blade tip. The former, which related to a larger site area, was comprised of 17 turbines with a maximum blade tip height of 126.5 metres. The Council raised an objection however the application was withdrawn.

8. Development Plan

- 8.1 The proposed development has been submitted under the Electricity Act and the statutory requirement under Section 25 of the Planning Act (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 is a significant material consideration.
- 8.2 Members should note that the Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications. The applicable policies in MPLDP2 are not materially different to those of the existing LDP. Supplementary Guidance: Wind Energy, remains relevant, with its windfarm spatial framework having been incorporated into MPLDP2, and the SG is likely to be re-adopted in similar form under the adopted LDP2.
- 8.3 The South Ayrshire Local Development Plan policy: wind energy is the primary local plan policy against which proposals for wind farm development are to be assessed. The LDP has several additional policies of relevance to the assessment of the planning application, which relate closely to the criteria of the wind energy policy. For ease of reference, they are listed beneath the corresponding criterion of the wind energy policy in the subsequent sections of this report.

- 8.4 Whilst the policy provides the basis for assessing wind energy developments, South Ayrshire Council adopted the Supplementary Guidance (SG) it refers to, in December 2015. That SG provides detail by which wind energy proposals can be fully assessed. It provides a spatial strategy for wind energy, in line with the requirements of Scottish Planning Policy (and in so doing identifies areas within South Ayrshire which are afforded significant national protection) and it provides guidance on how the policy of the Local Development Plan will be applied in the consideration of proposals.
- 8.5 The SG identifies the current site as being within an area of “significant protection” by reason of the area being a location where carbon rich soils, deep peat and priority peatland habitat exist. The SG follows the principles of Scottish Planning Policy (SPP) by stating that in such circumstances, further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design, or other mitigation. This specific matter is considered in more detail in the Assessment section of this report.
- 8.6 The SG covers the following issues:
- Impacts on landscape and landscape character
 - Visual impacts
 - Residential amenity, (noise, shadow flicker, visual impact, and traffic)
 - Natural heritage including national and locally protected species and habitats
 - Impacts on the historic environment and archaeology
 - Aviation, defence, and broadcasting interests
 - Cumulative impacts
 - Environmental management
 - Hydrology and the water environment
 - Borrow pits
 - Carbon losses
 - Flooding
 - Decommissioning and restoration bond obligations
 - Repowering
 - Extensions
 - Monitoring
- 8.7 Each of the above sections includes a reference to the Council’s policy on these issues and the matters which will be considered in the assessment of the proposals.

9. Assessment

- 9.1 In assessing the proposal, it is important to note that South Ayrshire Council is not the determining authority and has been asked to provide comments as a Statutory Consultee.
- 9.2 As previously stated, a number of comments from consultees have already been submitted directly to the Scottish Government. Where consultee responses are especially important in South Ayrshire Council's assessment of the proposal, they are referred to in the following assessment, and where appropriate, have been incorporated into the recommendations made with regard to suggested comments proposed to be sent to the Scottish Government. The full text of the submissions made to the Scottish Government can be found at The Scottish Government Energy Consents Unit web page (case reference ECU00003392).
- 9.3 For ease of reference, the assessment section of this report corresponds with the Sections of the LDP policy Wind Energy and considering the relevant Supplementary Guidance criteria:
- a) Landscape impacts and (b) Visual impacts
 - c) Communities Quality of Life and Amenity
 - d) Natural Heritage
 - e) Built & Cultural Heritage and Archaeology
 - f) Aviation, Defence, Broadcasting, Cumulative Impacts and Other matters
- 9.4 Other policies: As stated above, a number of policies throughout the Local Development Plan are also relevant in the assessment of the proposed development. They are listed beneath the primary wind energy policy criterion.
- 9.5 **Criteria (a) and (b): Landscape and Visual Impact**

We 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 (through a careful choice of site, layout, and overall design);**

We will support proposals if:

- ✓ **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 asserts and tourist attractions;**

- 9.5.1 In considering landscape and visual matters, the expertise of Carol Anderson Landscape Associates has been commissioned. Members will recall that Carol Anderson Landscape Associates is the author of the South Ayrshire Landscape Wind Capacity Study, the original version of which was used to inform South Ayrshire Council's Supplementary Guidance: Wind Energy.

Additional LDP policies:

LDP Policy Sustainable Development

LDP policy Landscape Quality

- 9.5.2 The proposed development comprises 13 turbines up to 200m height to blade tip, battery storage and other ancillary infrastructure lying to the south-west of Straiton. All turbines would require visible aviation lighting comprising red 2000 candela visible aviation lights attached at the nacelle and 3 x 32 candela lights on the towers of each turbine. The applicant proposes to install an Aircraft Detection Lighting System so that the lights would only come on when an aircraft approaches. Two accesses are proposed to the wind farm site using existing entrances to Carrick Forest. 7.4 km of new access track is proposed to be constructed with 8.7km of existing track upgraded. The proposal is located in a productive coniferous forest. Keyhole felling is proposed around each turbine although where this is not possible, felling will take place to the nearest forest edge.

Policy and guidance in relation to landscape and visual matters

- 9.5.3 SPP paragraph 169 states that the matters to be taken into consideration in the assessment of energy infrastructure developments are likely to include landscape and visual impacts, including effects on Wild Land. The application site is outwith but immediately adjacent to two Local Landscape Areas and the Merrick Wild Land Area is located approximately 3km to the east of the proposed windfarm.
- 9.5.4 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 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 are raised by the relative narrowness of this upland landscape and its proximity to adjacent smaller-scale and more sensitive valleys. In particular, this proposal lies in close proximity to the upper Girvan and Stinchar valleys which are classified as the Intimate Pastoral Valley LCT and to the mid Girvan valley which is classified as the Middle Dale LCT. These are smaller scale and diverse landscapes with a high sensitivity to wind farm development of this size. The proximity of the eastern part of the proposal to the Rugged Uplands with Lochs and Forests LCT (which has dramatic and diverse scenery, little modified character, and high recreational value) additionally increases sensitivity.

Effects on Landscape Character

- 9.5.5 While effects on the host landscape of the Foothills with Forest and Wind Farms LCT would be direct and significant, the larger scale and generally simple landform and landcover, the presence of other wind farms and the lower value associated with this landscape reduces sensitivity. The location and size of turbines within this proposal would, however, result in more severe significant adverse effects arising on parts of the following sensitive adjoining LCTs, which lie in close proximity to the proposed wind farm site.

Intimate Pastoral Valley LCT

- 9.5.6 The very large turbines of the proposal would form a dominant feature seen above the narrow upper Girvan valley between Straiton and Tairlaw and from the upper reaches of the Stinchar valley in the South Balloch area. The proposal would overwhelm the small scale of these valleys and significantly detract from their scenic and secluded character.

The Rugged Uplands, Lochs and Forests LCT

- 9.5.7 The proposal would be visible from north-western hill slopes and summits and within parts of the lower-lying basin between Cornish Loch and Loch Girvan Eye. The proposal would introduce views of very large turbines into a landscape which has relatively few human artefacts, diminishing the sense of wildness that can be experienced in parts of this LCT. Operational wind farms are already visible from the elevated parts of this landscape but the increased size and closer proximity of the turbines within the proposal would incur a much greater magnitude of change.

Effects on landscape designations and other valued landscapes

South Ayrshire Local Landscape Areas

- 9.5.8 The LVIA considers effects on the Local Landscape Areas (LLA) which will replace the existing South Ayrshire Scenic Area landscape designation in the forthcoming Local Development Plan. The proposal does not lie in a designated landscape but would have indirect effects on designated and other valued landscapes. The effects of the proposal on the LLAs will be similar to those associated with the LCTs outlined above as there is a correlation between boundaries. Significant adverse effects would occur on parts of the following LLAs:

The High Carrick Hills LLA

- 9.5.9 The High Carrick Hills LLA which lies in an arc approximately 3km to the south/south-east of the proposal. The limited modification of this upland area and the qualities of wildness that can be experienced within it are noted as some of the reasons for designation outlined in the Statement of Importance for this LLA. This proposal would have a significant adverse effect on these qualities where it is visible from north-western facing slopes and summits and more intermittently from lower-lying basins in the Cornish Loch to Loch Girvan Eye area. Part of the Merrick Wild Land Area lies within this LLA.

The Water of Girvan LLA

- 9.5.10 The Water of Girvan Valley LLA which abuts the north-eastern boundary of the proposed wind farm site. This proposal would be principally 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 part of this valued landscape.

The Stinchar Valley LLA

- 9.5.11 The Stinchar Valley LLA where the proposal would diminish the scenic quality and perception of seclusion towards the head of this hidden and little developed landscape, between Milton Bridge and South Balloch.

Merrick Wild Land Area (WLA)

- 9.5.12 The nearest wind turbine within the proposal lies 3.6km from the Merrick WLA and an assessment of the effects on the qualities of the WLA is contained in EIA-R Appendix 5.5. The assessment methodology is based on Nature Scot's 'Assessing impacts on Wild Land Technical Guidance' 2020 and the description of Merrick WLA (01). The assessment focusses on the northern part of the WLA, which lies closer to the proposal and where the greatest extent of visibility is also likely to occur. Visualisations from representative viewpoints within this part of the WLA have been produced from Shalloch on Minnoch (Viewpoint 5) and from Craighmasheenie (summit and western slopes) and from Loch Girvan Eye. Visualisations have also been produced from other locations further south in the WLA. It should be noted that the Knockcronal Wind Farm LVIA includes a photomontage visualisation from Loch Girvan Eye (a particularly secluded area where no wind farms are currently visible) in Viewpoint 23 and this is also useful to review as it provides more landscape context.
- 9.5.13 The Wild Land Assessment set out in the EIAR concludes that significant effects would not arise on the Wild Land Qualities of the Merrick WLA. The Merrick WLA is important in comprising one of the very few remaining areas of undeveloped uplands in south Scotland. It is a small WLA and one where many natural heritage and other designations and other interests come together increasing its value, especially given the more modified landscapes surrounding it which feature extensive commercial forestry and wind energy development. The proposal would comprise much larger turbines than any operational turbines currently seen from the Merrick WLA. The turbines would lie 3.6km from the northern boundary of the WLA boundary with visibility principally occurring from north-west facing slopes and hill summits including from Shalloch on Minnoch, Craighmasheenie and Cornish Hill. There would be visibility of the proposal further south within the WLA (and outside the study area defined for the Wild Land Assessment) but this would be confined to the higher ridges and summits with the turbines seen at increasing distances thus reducing intrusion.
- 9.5.14 The proposed turbines would introduce new visibility of wind farm development into an area of rugged lower-lying moorland and the basin of Loch Girvan Eye in the north-eastern part of the WLA although this would occur intermittently where local landform screens the operational Dersalloch turbines which are already prominent in views from parts of this lower-lying area. More elevated and sustained views will be possible from higher ground including from Shalloch on Minnoch, Craighmasheenie and Cornish Hill. The operational Dersalloch wind farm is the closest development presently seen from these northern hills within the WLA. This proposal would be significantly closer and comprise much larger turbines than the Dersalloch wind farm in these views and would provide a marked change in the perceived degree of intrusion and encroachment on this relatively small WLA. It is considered that there would be a significant diminishment of the sense of remoteness, sanctuary and fulfilment, key perceptual responses associated with the WLA, experienced from the northern part of the Merrick WLA. This proposal would also contribute to significant combined adverse cumulative effects on the Merrick WLA in combination with the application-stage Clauchrie, Knockcronal and Craiginmoddie wind farms.
- 9.5.15 NatureScot object to the proposal as the scale and location of the Carrick wind turbines would result in a distinct step change in the proximity, prominence and visual intrusion of wind farm development upon the Merrick WLA and adversely affect qualities 1, 3 and 4. The required aviation lighting would result in additional significant adverse effects on the perception of wildness attributes at dusk and into the night and NatureScot, therefore, also object due to the significant effects of turbine lighting.

Effects on Views

General visibility of the proposal

- 9.5.16 The dense forest and sparsely settled nature of the land immediately surrounding the proposal limits visual intrusion in some areas. Clear visibility within 5km of the proposal would be principally concentrated to the east and north-east across the upper Girvan valley with the western-most turbines also visible from the upper Stinchar valley.
- 9.5.17 Between 5km and 10km to the south and south-east of the proposal, the turbines would be visible from the western slopes and summits of the High Carrick Hills and within part of the interior valley, and loch basin lying to the east of the ridge between Cornish Hill and Shalloch on Minnoch and from Shiel Hill east of Cornish Loch. There would be some visibility from the south-west within the upper Stinchar valley west of South Balloch with this diminishing as the valley alignment changes and the development also becomes more distant from the proposal to the west.
- 9.5.18 Intermittent visibility would occur from parts of the well-wooded Girvan valley lying to the north of the proposal. Turbines would be associated with a lower and less prominent section of the skyline in these views with partial screening of tower bases (by landform around the site) reducing their apparent scale and intrusion. This is demonstrated in LVIA Viewpoints 9, 10 and 11 and the Cultural Heritage wirelines from Dalquharran Castle and from the B741 near Kilkerran (Figures 10.6 and 10.14).
- 9.5.19 There would be very limited visibility from Straiton and Barr which are the closest settlements to the proposal and effects on other settlements, including Crosshill, would not be significant.
- 9.5.20 There would be more distant views beyond 10km of the proposal from the Maybole area and surrounding higher ground to the north-east, including from the Brown Carrick Hills. Small areas of visibility would also occur to the south-west from higher ground either side of the Stinchar valley. 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 EIA Figure 6.10. Beyond this distance, it is considered that effects on views are generally unlikely to be significant.

Key visual effects

9.5.21 It is considered that the most significant adverse visual effects would be likely to affect views from:

- The road between Straiton and Newton Stewart where it is aligned in the upper Girvan valley, as illustrated by Viewpoints 6 and 23, 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 together with the operational Dersalloch wind farm in views from settlement and from Core Path SA47 - Bennan Walk which is aligned in this valley.
- Significant adverse effects would arise from Craigengower Hill where the walk up to the Colonel Hunter Blair Monument is a popular activity (EIA-R Viewpoint 8). The size and proximity of turbines will result in them being a prominent and distracting feature seen in front of the high rounded hills that lie west of the Nick of the Balloch and south of the Stinchar valley.
- From the upper Stinchar valley where 4 turbines would be particularly prominent between Milton Bridge and South Balloch and would significantly detract from the distinctive landmark hill of Craig of Dalwine in views east along the valley.
- The High Carrick Hills including from the routes to/from, and the summits of Cornish Hill and the Corbett of Shalloch on Minnoch (Viewpoint 5). These hills are popular with walkers and this proposal would present a marked change in the size and prominence of wind turbines in views from these hills. There would also be significant adverse effects from the Loch Girvan Eye area which lies in the less frequented interior of the Merrick WLA. There would also be significant adverse effects on walkers using more informal routes on the Rowantree and Pinbreck group of hills which lie to the west of Nick of the Balloch and south of the upper Stinchar valley.

Effects of Visible Aviation Lighting on valued landscapes

9.5.22 The applicant proposes to install an Aircraft Detection Lighting System. Such a system would activate the aviation warning lighting only when an aircraft is within the vicinity of the wind farm, which is likely to be a rare occurrence. When no aircraft are present, the lighting would be switched off. With such mitigation in place, the effects on the WLA and also on the Galloway Dark Sky Park (the proposal lies within the buffer zone) would not be significant. If it is not possible to install ADLS the effects of visible aviation lighting would be significant and adverse and would extend the adverse effects on the Merrick Wild Land Area, Dark Sky Park, and the Local Landscape Areas into the darker hours. It is noted that Nature Scot have objected in terms of the effects of aviation lighting on the WLA. Permanently on red aviation lighting would also extend the impacts on visual receptors in the Upper Girvan Valley and the Upper Stinchar Valley and for the relatively few people walking or camping in the high Carrick Hills. Notwithstanding the proposed mitigation, it is unclear at this time whether an ADLS can be feasibly considered as mitigation noting its dependence and reliance on other external factors in order to be reactive and respondent (including the need for all aircrafts interacting with the development to have pre-fitted transponders) alongside the fact that the relevant aviation authorities and regulators have not endorsed this form of mitigation. The Council therefore requires to adopt a precautionary approach on this and has considered the aviation lighting with limited weight applied to the ADLS as direct mitigation to offset the anticipated visual impacts of the lighting associated with the development.

Conclusions on Landscape and Visual Amenity

9.5.23 **The effects on the host landscape Foothills with Forest and Wind Farms would be direct and significant but acceptable having regard to the larger scale and simpler landform and landcover, the presence of other wind farms and the lower value associated with this landscape. However, the immediately adjoining landscape character types are more sensitive to this form of development and there would be significant adverse effects on the Intimate Pastoral Valley LCT and the Rugged Uplands, Lochs and Forest LCT which are contained within the Water of Girvan Local Landscape Area, The Upper Stinchar Valley LLA and the High Carrick Hills LLA. The latter area also forms an integral part of the Merrick Wild Land Area and the Galloway Dark Sky Park and there would be significant adverse impacts on the designated area. The proposed wind farm would affect views from the Western Slopes of the High Carrick Hills, the Upper Stinchar Valley, west of South Balloch and from the Water of Girvan Valley to the north of the development. Significant adverse visual impacts would be likely to affect views from the Straiton to Newton Stewart road, Core Path SA47 and Craigenower Hill (Colonel Hunter Blair monument) in the Upper Girvan Valley; between Milton Bridge and South Balloch within the Upper Stinchar Valley and from the summits of Cornish Hill and Shalloch on Minnoch and the interior of the Merrick Wild Land Area and the informal walking routes on the Pinbreck and Rowantree group of hills within the High Carrick Hills. Aviation lighting will be required and will extend the adverse landscape and visual effects into the darker hours. Whilst mitigation for aviation lighting is proposed, only limited weight can be attached to the particular solution proposed in the application due to the lack of endorsement by the relevant aviation authority.**

Effects on Tourism Attractions and Recreational Assets

9.5.24 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 the Local Development Plan.

9.5.25 Assets in Ayrshire and surrounding areas particularly sensitive to inappropriate development include areas designated for their scenic or recreational potential, including the Merrick Wild Land Area, 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 Nature sites. The application site is located within the Transition Zone of the Galloway and Southern Ayrshire Biosphere, Galloway Forest, and the Dark Sky Park Buffer Zone. Whilst the application site is outwith the Merrick Wild Land Area boundary, as described above, the proposal will have an impact on the qualities of the Wild Land Area.

9.5.26 The landscape and visual impacts of the proposal are the primary considerations with regard to the potential impacts on tourism and recreation for this particular application. As previously set out, it is noted that NatureScot objects to the application due to its significant adverse effects on the sense of remoteness and sense of sanctuary of the Merrick Wild Land Area and on the 'perception,' 'qualities' and 'experience' of wildness at dusk and into night. As noted in the assessment of the proposal under Landscape and Visual Impact above, there would also be adverse impacts on the Galloway Dark Sky Park and the High Carrick Hills Local Landscape Area. The Council has adopted Supplementary Guidance on Dark Sky Lighting. The application site is located within the Dark Sky Park Buffer Zone where the Guidance notes that there are few properties and businesses and any light within the area can be particularly conspicuous even from several miles away. Any lighting permitted within the Buffer should be Dark Sky compliant and should have no significant adverse impact on the overall night sky and natural environment. By necessity, the proposed aviation warning lighting is required to be mounted at high level on the turbines and to be conspicuous and as a consequence is not dark sky compliant. The proposed aviation lighting, in the absence of mitigation in the form discussed at paragraph 9.2.18 above, will detract from the aesthetic quality of the Dark Sky Park. The Wild Land Area and the Dark Sky Park form key features of the Buffer Zone for the Galloway and Southern Ayrshire Biosphere and it is noted that the Galloway & Southern Ayrshire Biosphere Partnership object on the grounds of landscape and visual effects and the consequential adverse effect on local tourism and sense of place. The formal and informal walking routes and important viewpoints within the Water of Girvan Local Landscape Area and the Stinchar Valley Local Landscape Area form part of the tourism and recreational assets of the area. Any significant adverse visual impacts would be contrary to the Local Development Plan objective to protect assets from inappropriate development. As noted in the assessment of landscape and visual impact, a number of these assets will experience adverse visual impact effects.

Conclusions on Tourism Attractions and Recreational Assets

9.5.27 **The Council objects to this development proposal on the basis of significant adverse landscape and visual effects due to the scale and positioning of the proposed turbines and the associated impacts of these effects on the tourism and recreational resource of the locality including the Merrick Wild Land Area, Galloway Forest Park and The Dark Sky Park. It is considered that the significant adverse landscape and visual effects of this wind farm could not be mitigated by reducing the size or number of turbines. The location of this proposal is inappropriate given the sensitivity of nearby landscapes.**

9.5.28 It should be noted that an assessment of the potential physical impacts and implications of the development proposals on the rights of way and core paths which support tourism and recreation in this area has been undertaken separately in the 'Other Matters' subsection below. This considers the significance of the direct and physical impacts of the development on path networks and routes within and close to the site, the relevant mitigation that would be required to offset expected impacts alongside setting out of certain opportunities for recreational improvements that could be made should the development be granted contrary to Council recommendations.

9.6 Criterion (c): Communities Quality of Life and Amenity

We will support proposals if:

- ✓ **They do not have any other significant detrimental effect on the amenity of nearby residents, including from noise and shadow flicker;**

Additional LDP Policies

LDP Policy Sustainable Development
LDP policy Air, Noise and Light Pollution.
LDP policy Land Use and Transport

- 9.6.1 SPP (paragraph 164) states that individual properties and those settlements not identified within the development plan will be protected by the safeguards set out in the local development plan policy criteria for determining wind farms and the development management considerations. In this regard SPP (paragraph 169) requires that consideration shall be given to visual impact, residential amenity, noise, and shadow flicker (paragraph 169).

Noise

- 9.6.2 Chapter 9 of the EIA Report sets out the applicant's assessment of potential noise and vibration impacts that could arise as a result of the proposed development during both the construction and operational phases of the development.
- 9.6.3 The majority of required construction works would be undertaken at substantial distances from the closest noise and vibration sensitive receptors. However, at their closest, some access track upgrade works will be required at an approximate distance of 220m from one receptor. An assessment of construction noise has been carried out in the EIA at the nearest receptor and this has concluded that the resulting levels from such works would be below the applicable assessment criteria as determined in accordance the British Codes of Practice for Noise and Vibration Control on Construction Sites and Open Sites. The EIAR includes an assessment of the blast induced groundbourne vibration and air overpressures associated with excavation of the proposed borrow pits. No significant effects were found due to the separation distances to the nearest sensitive receptors. The relevant chapter and appendices in the EIAR were reviewed by the Council's Environmental Health service and they concur with the findings of the EIA in relation to construction noise.

- 9.6.4 Chapter 9 of the EIAR sets out the assessment of wind turbine noise. The assessment was undertaken in accordance with the requirements of the Energy Technical Support Unit's 1996 ETSU-R-97 document: *The assessment and rating of noise from wind farms*, and the Institute of Acoustics: *A good practice guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise*. The assessment has been informed by the results of a desk-based review, site visits, a detailed baseline noise survey and a detailed noise modelling and prediction exercise. The completed assessment has accounted for cumulative effects from the proposed development operating simultaneously with existing local operational wind farms (Dersalloch and Hadyard Hill) and the proposed Craiginmoddie and Knockcronal Wind Farms. The EIAR concludes that the assessment has demonstrated that the proposed development both in isolation and with the proposed Craiginmoddie and Knockcronal Wind Farms could operate within the remaining available (residual) limits. The assessment found that no noise mitigation measures are required to be applied to the proposal. The assessment did however identify that should the Craiginmoddie Wind Farm be consented, that development would require a limited degree of turbine noise management to reduce noise levels to below day-time limits at Doughty Farm, or alternative measures such as careful turbine selection or financial involvement of the residents of that property. However, the levels from the proposed development at Doughty would be substantially below the applicable limits. The assessment also demonstrated how the available limits could be apportioned between the three-application stage proposed wind farm developments (Carrick, Craiginmoddie and Knockcronal), and how such apportioned noise limits could be used as part of consent conditions to ensure that a significant cumulative noise effect would not arise. No noise nuisance effects are anticipated as a result of the fixed plant associated with the development (substation and energy storage facility), which are located a sufficient distance away from receptors.
- 9.6.5 The operational noise assessment has been reviewed on behalf of the Council by ACCON UK Ltd, who are an environmental consultancy with specialisms in energy and wind farm developments. ACCON are content that the methodologies used for the baseline noise survey and assessing potential effects were appropriate. ACCON agree with the approach to the cumulative assessment and setting site specific noise limits and agree with the conclusion in the EIAR that noise from the operation of the turbines is not significant in EIA terms. ACCON recommend that any consent for the proposed Carrick Wind Farm should be conditioned with operational noise limits based on those adopted in the applicant's noise assessment. A condition to control amplitude modulation would also be appropriate.

Shadow Flicker

- 9.6.6 The term shadow flicker refers to the flickering effect caused when rotating turbine blades periodically cast shadows over nearby properties. Shadow flicker occurs inside a property and under a certain set of conditions, including bright sunshine, when the turbines are operational and when the sun is in a particular location to cast a shadow from the wind turbines across a property. The Scottish Government's "Onshore wind turbines: Planning Advice states that shadow flicker is unlikely to be a significant impact at distances greater than ten rotor diameters. The Council's Supplementary Guidance for Wind Energy, however, requires that any property within 2.5km of a turbine should be assessed and this distance was adopted for the EIA. The assessment was carried using a computer model. A worst-case scenario was produced initially which assumed that on those times during the year when the relative positions of the sun, wind turbines and receptor could produce shadow flicker, there would be no cloud and the wind would be sufficient to move the turbines. A more realistic scenario was also produced which utilised recent meteorological data to include the probability of sunshine in a given month, the amount of time the turbines are likely to be turning and the likely direction that the turbines would be facing. There is no national planning policy guidance in Scotland relating to acceptable shadow flicker impacts. +30 hours per year or +30 minutes per day of shadow flicker is regarded as the threshold for nuisance under a worst-case assessment scenario and 8 hours per year based on a realistic case scenario assessment. One property would experience shadow flicker for a period in excess of the standard for worst case and realistic case scenarios (127:12 hours of shadow flicker per year worst case/11:43 hours per year realistic case) and would need to be mitigated by shutting down the relevant turbines when shadow flicker is likely to occur. The applicant proposes that an automated approach to shutting turbines down is used, affecting turbines 1, 3, 5 and 6.
- 9.6.7 An assessment of the potential cumulative effects of the proposed development in combination with Craiginmoddie Wind Farm and Knockcronal Wind Farm was undertaken and this identified potential cumulative shadow flicker effects at four properties. Shadow flicker predicted as a result of the proposed Craiginmoddie and Knockcronal wind farms would occur at different times of the year and at different times of day. Therefore, mitigation of shadow flicker at each individual wind farm would be required. Whilst there are no current consents for Craiginmoddie or Knockcronal, it should be noted that mitigation of shadow flicker is a standard condition applied to most wind farm developments. The Council's Environmental Health Department have no objections to the proposals on shadow flicker grounds.

Residential Visual Amenity Assessment

- 9.6.8 The Residential Visual Amenity Assessment (RVAA) is set out in EIA-R Appendix 5.4 and considers the effects on 5 properties lying within 2km of the proposed development as a result of the proposed development on its own and in combination with the nearby consented and application stage wind farms. The properties considered in the assessment are shown on Figure 5.4.1. in the EIAR. This figure also shows other close-by properties mainly lying within the upper Girvan valley which lie just beyond the 2km threshold. The RVAA concludes that significant adverse effects would occur on visual amenity from 4 of these properties (Doughty Farm is considered not to be significantly affected). The assessment considered that none of these 4 properties were likely to have such severe effects that they would reach the Residential Amenity Threshold and be judged to become an unpleasant place to live.

9.6.9 Site inspections were undertaken by the Council and their landscape consultant at the properties considered in the RVAA in March 2022. The site inspections confirm that the judgements reached in the RVAA with regard to effects on all properties are appropriate, with the exception of Glenalla where it is considered that the magnitude of change incurred by the proposal, on its own, is under-estimated and would be **high** not medium-high and the level of effect therefore **major**. The conclusions of the RVAA and the Council's consideration of this is set out in the following table:

Property	No. of Carrick turbines theoretically visible or partly visible	Distance to nearest turbine	EIAR Assessed Level of Effect With Carrick Only	EIAR Assessed Level of Cumulative Effect	Council Assessment
Doughty	5	1.8km	Moderate-Minor	Major	Agree for both
Glenalla	13	1.04km	Major-moderate	Major	Major for both
Tairlaw Toll Cottage	6	1.41km	Moderate	Major-Moderate	<u>Disagree</u> with the EIAR assessment and conclude Major for both
Tairlaw Toll House	13	1.42km	Major-moderate	Major-Moderate	Agree for both
Tallaminnoch	13	1.46km	Major-moderate	Major-Moderate	Agree for both

9.6.10 Glenalla: is a remote single cottage accessed from an unmetalled forest road from the U27 unclassified road near the Deil's Elbow. The Carrick wind farm would be located to the south whilst the application stage Craiginmoddie wind farm would be located to the southwest and the application stage Knockcronal wind farm would be located to the east. While the proposal would not be seen in direct views from inside the property, it is considered that the horizontal spread of turbines seen to the south and south-east, their proximity and dominance in views from the curtilage and approach to the property would result in this property reaching the Residential Amenity Threshold and that the proposal alone would lead to an overbearing visual effect. The RVAA concludes that the combined cumulative effect of this proposal with the application-stage Knockcronal wind farm, and the more prominent Craiginmoddie wind farm, would result in a **major** adverse effect on the property of Glenalla.

9.6.11 Tairlaw Toll Cottage: Is a storey and attic detached house located at the side of the C1 unclassified road (Straiton to Tairlaw). The attic space has been converted into the main living space to take advantage of the views towards the open hills to the west. The rear garden area is formed in two distinct sections, with a level area located immediately adjacent to the rear of the house and a lower-level area adjacent to the river. The proposed Carrick wind farm and the application stage Knockcronal wind farm would be located to the west of the house. The combined cumulative effect of this proposal with the application-stage Knockcronal wind farm would also result in a **major** adverse effect on Tairlaw Toll Cottage. The RVAA also considered the effect on Tairlaw Toll House which is located on the opposite of the C1 from Tairlaw Cottage. This property will have a similar view of the proposed Carrick wind farm and the Knockcronal application stage wind farm. However, foreground views of both wind farms will be partially screened by Tairlaw Toll Cottage which will reduce the magnitude of change from inside the property. There would however be views from higher up the sloping garden to the side of the house.

9.6.12 A major or moderate-major adverse visual impact is predicted at all five properties. However, it is considered that at both Glenalla and Tairlaw Toll Cottage the magnitude of impact would reach the Residential Amenity Threshold with the combined effects of all application-stage wind farms likely to have an overbearing visual effect. Visible aviation lighting without the installation of an ADLS would contribute to significant adverse effects on residential properties and especially on Glenalla and also on Tairlaw Toll cottage when seen in combination with the proposed application stage Knockcronal wind farm.

Access, Traffic & Transport

9.6.13 It is proposed that wind turbine components are delivered to Glasgow King George V Dock via the M8/M74/M6. Loads would leave the M6 at Gretna and follow the A75 to Newton Stewart before travelling north on the A714 to Bargrennan. At Bargrennan, traffic would route along the C46W (Glentool) to the proposed site access points. The C46W is a single carriageway road with passing places, varying in width from 3 metres to 6.8 metres. An initial route assessment has identified the need for removal of obstructions, including vegetation, lighting columns, poles, road signs and potential physical upgrade works including widening, regrading and embankment regarding at a number of locations. A number of potential access routes for general construction traffic have been identified. All general construction traffic will enter the site from the two existing forestry access junctions on the C46W from both the north (Straiton) or south (Glentool). Within South Ayrshire general construction traffic is likely to utilise the B741 (Girvan to Straiton), B7023 (Maybole to Crosshill) and B7045 (Maybole to Kirkmichael/Straiton). The traffic effects associated with the development would be most pronounced in close proximity to the site access junctions and on those sections of the routes where 100% of the traffic would use (e.g., the C46W). Further away from the development, traffic would disperse across the wider road network.

9.6.14 The proposed development will lead to increased traffic volumes on a number of roads in the vicinity of the site during the construction phase. These would be of a temporary nature only. The EIA Report concludes that prior to the implementation of mitigation, a moderate impact could be expected in relation to severance, pedestrian amenity and accidents and safety. A range of mitigation measures are proposed, including implementation of a construction traffic management plan (CTMP). The proposed mitigation would reduce the effects of abnormal loads and general construction traffic to slight or negligible adverse levels. No significant residual effects are anticipated in respect to traffic and transport matters and the traffic impacts associated with the operational phase would be very low with one or two small service vehicles regularly accessing the site to carry out routine maintenance. ARA do not object to the proposals but wish to see the use of the Tairlaw Bridge by HGV traffic minimised to protect the structure and as a consequence of the geometry of the road alignment. ARA support the winning of material on site to reduce the volume of HGV traffic on the public road network. The Construction Traffic Management Plan should reflect this and should also be based on the actual number of GHV movements once a decision has been made in relation to the use of stone from the borrow pits. ARA will require the applicant to enter into a Section 69 Agreement covering tonnage contributions associated with the general impact of construction loading associated with the import of materials.

Active Travel Access Routes and Recreation

9.6.15 Core paths and other access routes provide an important network which give people confidence to move freely about the countryside and encourage enjoyment of outdoors for recreation. NatureScot do not object to the proposal in terms of impact on routes. NatureScot support the proposal to retain one of the construction compounds for use as a carpark for recreational users of the site. An access management plan is required to ensure that there is a strategy for managing access impacts. ScotWays have issued a holding objection, pending confirmation of the separation distances between the turbines and the paths that form rights of way. Their objection relates to lack of sufficiently detailed plans to be able to determine the distances that turbines will be setback from the walking routes that pass through the site.

Conclusions on Communities Quality of Life and Amenity

9.6.16 During the construction phase, no significant adverse noise impacts are anticipated affecting any particular community. There is potential for one property to be affected during the construction phase, however, this can be mitigated through a planning condition controlling hours of working. No adverse noise effects are predicted as a result of the operation of the proposed wind farm operating in isolation. However, there is potential for adverse impact on one property (Doughty) as a result of the cumulative impact of the proposal and the proposed Craiginmoddie wind farm, should that development be consented and constructed. The potential cumulative effect could be mitigated through turbine noise management (automatically shutting down particular turbines under certain wind conditions). One property has potential to be adversely affected by shadow flicker, however, this potential impact can be mitigated through planning condition(s) requiring appropriate management of the operation of the turbines. The visual amenity of two properties (Glenalla and Tairlaw Toll Cottage) would be adversely affected to such a degree that these properties would become undesirable places to live. The impact cannot readily be mitigated due to the proximity of the turbines to the affected houses, the height of the turbines and the openness of views towards the turbines. No significant residual impacts on any particular community or individual residence are anticipated as a result of transportation of abnormal loads and general construction traffic following implementation of the mitigation measures proposed (Construction Traffic Management Plan, incorporated into the broader Construction and Environmental Management Plan). Whilst there is potential for the turbines to be positioned close to rights of way, no routes will be obstructed as a result of the development and there is potential to improve the range of recreational opportunities.

9.7 Criterion (d): Natural Heritage

We will support proposals if:

- ✓ **They do not have a significant detrimental effect on natural heritage features, including protected habitats and species, and taking into account the criteria in LDP policy: Natural heritage;**

Additional LDP Policies

LDP Policy Natural Heritage
LDP Policy Sustainable Development
LDP Policy Water Environment

9.7.1 The site is an existing commercial forest predominantly covered by Sitka Spruce plantation. The surrounding habitat to the south and east is also predominantly comprised of plantation woodland. To the north and west of the site the land is comprised mainly of agricultural rough grazing. There are several lochs within 10km of the site including Loch Bradan, Loch Riecawr, Loch Finlas and Loch Doon.

Protected Species

9.7.2 Desk-top and on-site surveys were undertaken to identify the presence of protected species. Abundant evidence of water vole was found along the Pulreoch Burn and unnamed tributaries. Evidence of water vole was also recorded on unnamed tributaries of Tairlaw Burn and Knockoner Burn. Abundant evidence of Otter was found along Pulreoch Burn, including multiple spraints and a couch. The couch was on the outer edge of the study area, 290m from the development area. Otter spraint was also recorded on Tairlaw Burn and Palmullan Burn. Whilst parts of the site provide suitable habitat for badger, no evidence of badger was found during the site surveys. However, it is possible that badger could move into the site in the future. Abundant evidence of Pine Marten and potential Pine Martin scats were recorded in the western and central parts of the site, within mature Sitka Spruce plantation woodland. Two adult Pine Martens were observed in the northwest of the site and one potential den was spotted at Stob Hill (located 250m from the nearest access track and 350m from the nearest wind turbine). There was evidence of Pine Marten within areas of fallen trees within the north and west of the site. The habitat suitability assessment found the northern and western parts of the area to have moderate suitability for red squirrel. Whilst evidence of squirrel was found within the site, no sightings were made, and it was not possible to attribute the evidence to red or grey squirrel. The desk top study however provided evidence of red and grey squirrel being present within the site and the wider area. The eight existing ponds within the site were found to be of poor suitability for supporting Great Crested Newt (GCN). DNA analysis returned either negative or intermediate results. No GCN were recorded during trapping and torch surveys in any of the ponds surveyed and are considered to be absent from the site despite a positive eDNA result in 2015 provided by Forestry & Land Scotland.

9.7.3 Other notable species of *conservation concern* were recorded as present including common lizard, brown hare, butterflies, and deer. The site has the potential to support hedgehogs, various invertebrate species, and other reptiles.

Bats

- 9.7.4 Bat survey work was undertaken at the site in Autumn 2019, Spring 2020, and Summer 2020. Static bat detectors were distributed throughout the site based on the proposed development. Five species/genera of bat were recorded including Soprano Pipistrelle, Common Pipistrelle, *Myotis* species, Brown Long-eared Bat and Leisler's Bat. Three proposed wind turbines (T1, T5 and T6) are potentially within vicinity of bat with two (T2 and T8) potentially being less than 200m from roosts. A bat mitigation plan is proposed. The mitigation plan proposes that turbines will be paused prior to sunset and sunrise in certain weather conditions. The proposed initial mitigation plan would be varied if monitoring of bat fatalities indicates an alternative plan is necessary. NatureScot do not object to the proposal in terms of the potential for adverse impact on bat and welcome the minimum buffer distance of 50 metres from blade swept path to habitat features. However, NatureScot advise that any consent given should reflect the requirement to retain an open buffer between turbines and surrounding trees, woodlands, watercourses and buildings, to feather all turbines to reduce rotation speed whilst idling during the active bat season (dawn-dusk, April-October) from the outset of the operation of the development, implement a turbine curtailment regime and bat monitoring as proposed in appendix 7.4 (with amendments) and require a minimum 3 years post-construction monitoring.

Birds

- 9.7.5 There are two SSSIs within 10km of the site (Merrick Kells and Bogton loch) which are designated for ornithological features. The EIA assessed that connectivity between the wind farm site and these areas was unlikely. The Galloway Forest Park is recognised as an important bird area (non-statutory). In addition, the River Stinchar (Milton to Black Hill) Provisional Wildlife Site, located to the southwest of the site, is noted for its breeding bird interest. A series of ornithological studies were undertaken between September 2018 and August 2020 to identify the effects on breeding, foraging and roosting birds. Across the two-year survey period, a total of 166 flights by 13 target species were recorded, with Osprey recorded the most frequently. The remaining species levels of activity were low. Small numbers of male Black Grouse were occasionally recorded, the majority of which were outwith the breeding season. The Desk Study revealed multiple records of Black Grouse within 2km of the site, including small numbers of lekking birds in four areas within the Black Grouse Study Area. Breeding birds were recorded within the study area. Active or historic territories of three breeding Schedule 1 raptor species were identified within the Breeding Raptor Study Area, details of which are provided within a confidential annex. During the non-breeding season, the majority of bird species recorded were common and widespread species typical of plantation habitat. The impact of the construction phase of the wind farm on birds was assessed in terms of habitat loss, habitat modification and disturbance/displacement. The extent of bird habitat loss would be 26.72 ha, the majority of which (85%) would be coniferous plantation. The remainder would consist of bog (9.5%), dry heath (4.2%) and semi-improved neutral grassland (1%). The EIAR concludes that the proportion of habitat loss would be relatively low, and it is likely that species affected by habitat loss would be able to use suitable habitat within the wider area. Areas of plantation would be permanently modified to open ground (around the turbine bases). However, the extent of modified habitat is considered by the authors of the EIAR not to be significant. During the construction phase there would be increased levels of activity by site personnel, vehicles and machinery resulting in increased levels of noise and visual disturbance. This could lead to the temporary displacement or disruption of breeding, foraging and/or roosting birds. The applicant proposes a Bird Protection Plan, in consultation with NatureScot, to further mitigate the impact on breeding birds and any roosting hen harriers. The Plan would be overseen by an Ecological Clerk of Works (ECoW). Initial measures proposed include pre-construction surveys for crossbill, black grouse and other bird species, protection of nesting birds, minimisation of disturbance to black grouse and protection of roosting hen harrier. During the operational phase there is a risk of birds colliding with the wind turbine blades. The EIAR identified a low risk of osprey colliding with the turbines. However, although an effect is predicted, it is not considered to be of sufficient magnitude to affect the abundance and distribution of this species locally. However, given that the breeding Osprey population in Ayrshire is small, a three-year monitoring programme is proposed for this species. All other bird species were considered to be at negligible collision risk.
- 9.7.6 NatureScot do not object to the proposed development in terms of birds, subject to conditions ensuring the proposed mitigation is implemented.

Habitats

- 9.7.7 There are no statutorily designated sites of nature conservation within the site and the nearest is located 6.7km north (Merrick Kells SAC/SSSI). Four non-statutory designated sites are located within the site, one of which overlaps the proposed development area. The survey area was dominated by coniferous plantation. Forest rides were modified in some way due to drainage ditches created for the forestry, though communities identified within these still tended to be very wet and included blanket bog. Clearings near Garleffin Fell in the west, around Linfern Loch in the centre of the study area and by Clashverains to the north held the greatest botanical diversity and interest and include dry and wet heath, blanket bog, flush and marshy grassland communities. No notable species were recorded within the site. Notable species were identified outwith the site including the legally protected *H. non-scripta* (Bluebell).

Conclusions on Natural Heritage

- 9.7.8 **The findings of the EIA indicate that the proposed development will not have any significant adverse effects on protected species that are present within or close to the site and no designated nature conservation sites will be adversely impacted. Mitigation is proposed in relation to the potential adverse effects on bats and birds. A habitat management plan is proposed to enhance the biodiversity value of the cleared areas of commercial forest plantation. There are no natural heritage objections to the proposed development from RSPB, Saving Scotland's Red Squirrels and NatureScot. RSPB note the increased collision risk for Osprey but agree that there will not be a significant impact at the population level and support the inclusion of an osprey monitoring programme as proposed in the application. NatureScot have no objection to the proposals in terms of protected areas, protected species and habitats but note the requirement for pre-construction surveys completed no more than three months before the start of works.**

9.8 Criterion (e) Built & Cultural Heritage

We will support proposals if:

- ✓ **They do not have a significant detrimental effect on the historic environment, taking into account the criteria in LDP policy: historic environment and LDP policy: archaeology;**

Additional LDP Policies

LDP Policy Sustainable development
LDP Policy Historic environment
LDP Policy Archaeology

- 9.8.1 An archaeological and cultural heritage assessment for the EIA identified 120 heritage assets within the wider study area, 7 of which are within the site. Those situated within the site relate to post-Medieval agricultural practices from the 18th and 19th centuries and are deemed to be of low or negligible value. An assessment of the archaeological potential for currently unknown heritage assets to be present within the site is deemed to be low due to the altitude, previous commercial forestry activity and lack of archaeological remains in close proximity, other than the Post Medieval agricultural assets. There are no designated archaeological sites within the development area. The layout of the development has been designed as far as possible to avoid direct impacts on the identified heritage assets. However, there are potential impacts on all of these features which range in magnitude from minor to major. Mitigation is proposed, including demarcation, and recording and with these measures in place the residual significance of effect would be neutral for most assets. One section of drystone wall will require to be removed at Linfern Loch resulting in a slight adverse impact.
- 9.8.2 An archaeological and cultural heritage assessment for the EIA identified 120 heritage assets within the wider study area, 7 of which are within the site. Those situated within the site relate to post-Medieval agricultural practices from the 18th and 19th centuries and are deemed to be of low or negligible value. An assessment of the archaeological potential for currently unknown heritage assets to be present within the site is deemed to be low due to the altitude, previous commercial forestry activity and lack of archaeological remains in close proximity, other than the Post Medieval agricultural assets. There are no designated archaeological sites within the development area. The layout of the development has been designed as far as possible to avoid direct impacts on the identified heritage assets. However, there are potential impacts on all of these features which range in magnitude from minor to major. Mitigation is proposed, including demarcation, and recording and with these measures in place the residual significance of effect would be neutral for most assets. One section of drystone wall will require to be removed at Linfern Loch resulting in a slight adverse impact.
- 9.8.3 Outwith the site, one designated heritage asset (Knockinculloch Enclosures) is anticipated to receive a significant effect of Moderate Adverse in relation to impact on its setting. Historic Environment Scotland do not consider that the effect of the development on the setting of the monument merits refusal of the proposal. Historic Environment Scotland have also commented that the mitigation proposed by the applicant (peat core sample) is not necessary and would in any case be unacceptable intervention. West of Scotland Archaeology have advised that they are generally in agreement with the EIA and do not consider that the proposed development will result in significant heritage impacts that would merit refusal of the development. WoSAS do however recommend that a programme of archaeological works is undertaken within the development site to ensure that any unrecorded archaeology is identified and recorded.

Conclusions on Built and Cultural Heritage and Archaeology Assessment

9.8.4 **The proposed development does not raise any significant cultural heritage concerns, subject to a condition requiring a programme of archaeological works to be undertaken to record and recover any unknown archaeological assets within the development site.**

9.9 **Criteria (F); (G) & (H): Aviation, Defence, Broadcasting, Cumulative Impacts & Other Matters**

We will support proposals if:

- ✓ **They do not adversely affect aviation, defence interests and broadcasting installation; and their cumulative impact in combination with other existing and approved wind energy development, and those for which applications for approval have already been submitted, is acceptable.**

Secondary LDP Policy

LDP policy Natural Heritage
LDP policy Archaeology
LDP policy Historic Environment
LDP policy Air, Noise and Light Pollution
LDP policy Protecting the Landscape
LDP policy Sustainable Development
LDP policy Spatial Strategy
LDP policy Water Environment

Aviation and Defence

9.9.1 Glasgow Prestwick Airport (GPA) and National Air Traffic Services (NATS) have objected to the proposed wind farm. GPA note the applicant's intended mitigation for aviation safety lighting which includes installation of an Aircraft Detection Lighting System (ADLS). GPA note that approval of ADLS is solely a matter for the CAA but wish to be consulted on any proposals should the Scottish Ministers be minded to grant approval subject to a condition requiring ADLS. The safeguarding assessment carried out by GPA has identified potential adverse effects on the Airport's primary surveillance radar, secondary surveillance radar and the VHF/UHF communication equipment. Those issues having been identified; the Airport conducted the Air Traffic Control Operational Impact Assessment (ATC Operational Impact Assessment). This assessment indicated that, although the development is outwith the Controlled Airspace, it is operationally significant area of airspace in which the Airport's Air Traffic Controllers regularly provide an air traffic service. Having regard to the adverse operational impact, one of the conclusions of the assessment is that mitigation will be required for those turbines which will be visible to the Airport's primary radar. GPA have stated that whilst it may be possible to mitigate radar clutter this is not guaranteed. Further, should it be possible to mitigate the impact, the mitigation measures will require to be kept in place by the Airport for the lifetime of the development. Other issues identified by GPA include the need for aviation warning lighting, potential loss of VHF Ground to Air Communications, potential loss of low-level surveillance cover and general cumulative impact of having so many windfarms in close proximity to each other including adverse effect on the Airports second surveillance radar data feed from the NATS Lowther Hill radar. The CAA have not responded to the consultation.

9.9.2 The development falls within a Ministry of Defence (MoD) Tactical Training Area within which fixed wing aircraft operate as low as 100 feet above ground level and the turbines have the potential to introduce a physical obstruction. To mitigate this impact the MoD, require the development to be fitted with aviation safety lighting and sufficient information to ensure that the structures can be accurately mapped to allow deconfliction.

Broadcasting and Telecommunications

- 9.9.3 The Joint Radio Council and British Telecommunications PLC have no objection to the proposal. In line with standard practice, it is anticipated that Scottish Ministers would add a condition requiring mitigation for any unanticipated interference with TV signals should the development be approved.

Cumulative Effects

- 9.9.4 No cumulative landscape and visual impacts with the operational Hadyard Hill or Dersalloch wind farms have been identified, however, the location of the proposed wind farm is close to other proposed wind farms that are at application stage, including Knockcronal, Craiginmoddie and Clauchrie. The assessment of the proposal under Criteria A and B (landscape and Visual Impact) above has identified adverse cumulative impact on the landscape character of the immediately adjoining Landscape Character Types (Rugged Uplands, Lochs and Forest LCT and Intimate Pastoral Valley LCT) and the associated landscape designations of Merrick Wild Land Area, High Carrick Hills Local Landscape Area, Water of Girvan Local Landscape Area, and the Stinchar Valley Local Landscape Area. Cumulative adverse visual impact has also been identified on popular walking routes within the High Carrick Hills LLA (represented by Viewpoint 5), from Craigengower Hill near Straiton (Viewpoint 8) as well as from more informal walking routes around Pinbreck Hill and Rowantree Hill which lie on the southern outer edge of the Stinchar Valley. Cumulative adverse visual impacts are also anticipated from the Straiton to Newton Stewart minor road. The combined visual effects of the proposal and the application stage Knockcronal wind farm would result in an adverse impact on Residential Visual Amenity at Tairlaw Toll Cottage. An adverse impact on Residential Visual Amenity is also anticipated at Glenalla due to combination of the current proposal and the Knockcronal and Craiginmoddie proposed application stage wind farms. The potential for cumulative noise and shadow flicker effects is discussed under Criterion C however it is noted that conditions can be imposed on any consent to avoid noise nuisance. No other cumulative impacts have been identified.

Other Matters

Forestry

- 9.9.5 The turbines and other site infrastructure are to be keyholed into the existing conifer woodland. Where this is not possible due to the age or stability of the crop, entire coupes are to be felled and restocked. The restocked areas will include open areas around the turbines measuring 100m in radius around each turbine base. Approximately 223ha of felling would be required to facilitate construction. Following consideration of restocking, the area of unplanted ground within the site would increase and as a result there would be a net loss of woodland area of 96.68ha which will require compensatory planting elsewhere.

9.9.6 NatureScot welcome the opportunities to improve the resilience of the conifer dominated forest and to increase its contribution to providing a high-quality environment and advise that increasing the proportion and diversity of native species is appropriate to this objective. Diversification of woodland planting would also benefit Black Grouse and the applicant is encouraged to incorporate additional riparian woodland creation and open space in excess of that proposed. Ayrshire Rivers Trust have also requested additional native tree planting within riparian areas. The re-stocking planting proposed around the edges of the borrow pits should take account of the restoration of these areas to peatland and not result in planting that affects light and water conditions. Forestry and Land Scotland (FLS) have advised that the changes required to the previously approved land management plan for the Carrick Forest to allow for the construction of wind farm will have a modest negative impact on forest restructuring. The area of compensatory planting required to mitigate the permanent loss of woodland arising from the development is 97.2ha of productive forest plus additional land to be planted with native broadleaves and open ground.

Surface Water, Groundwater and Private Water Supply (PWS)

9.9.7 The site is located across the catchments of the Water of Girvan and the River Stinchar. The northern part of the site is drained by the Water of Girvan catchment and its tributaries, including the Palmullan Burn and the Knockoner Burn. The southern extents of the site are drained by the River Stinchar and its tributaries, including Linfern Loch Burn and Dalquhairn. The eastern extent of the site is drained by the Tairlaw Burn and its tributaries including Pulreoch Burn. Linfern Loch is located immediately south of the site. Within the site there are numerous small artificial channels which are associated with the conifer plantation. Flood risk data supplied by SEPA indicates flood risk limited to the immediate area adjacent to the River Stinchar, Tairlaw Burn, near water crossing WC01, Palmullan Burn and Water of Girvan. Small discrete locations of surface water flooding are noted adjacent to the small tributaries of the River Stinchar and Water of Girvan. A large part of the south and south - east of the site is located within a Drinking Water Protected Area and an associated pipeline runs south of the site adjacent to the C46w public road. There are five private water supplies within a 5km radius which supply individual houses and farms. The River Stinchar, Dalquhairn Burn, Palmullan Burn, Tairlaw Burn and Pulreoch Burn are recognised as having potential to support fish populations. The EIAR states that the iterative design process aimed to minimise the number of water crossings and avoid areas of deeper peat. At the detailed design stage, micro siting of turbine bases and access tracks will aim to optimise the distances from waterbodies and peat. The development will require seven water crossing (two new crossings and five upgraded) for the access tracks. Mitigation measures will be implemented to reduce potential alterations to sub-surface flows and groundwater levels and, as a result, to reduce potential effects on Ground Water Dependent Terrestrial Ecosystems. SEPA do not object to the water-crossings, subject to use of single span or bottomless arched culverts and the appropriate authorisations being sought. No private water supplies were considered to be at risk and this conclusion is supported by both the Council's Environmental Health service and SEPA.

- 9.9.8 NatureScot support the proposals detailed in the EIAR section 7.6.3 to maintain a minimum 50m buffer around watercourses and that the design of new watercourse crossings will maintain hydrological connectivity and allow free passage of fish and other species. NatureScot also support the development of fish monitoring plan and the inclusion of pollution prevention plans within the CEMP. NatureScot advise that opportunities to improve riparian habitat condition through native broadleaf planting to protect the aquatic environment from increased sedimentation caused by the construction works. NatureScot encourage the provision of a bridge at water-crossing number 1 in preference to a culvert. Ayrshire Rivers Trust (ART) do not object to the proposed development subject to conditions to ensure that all the new and upgraded water crossings ensure continuous fish passage and flow, ensuring that there are no hanging culverts and resident fish are removed prior to any instream works. ART have also advised that the monitoring program to assess the impacts of construction works should include provision to monitor the water crossings. ART have also made recommendations in relation to matters to be included in the Construction Environment Management Plan and the species protection plan for Water Vole.
- 9.9.9 SEPA are of the opinion that most of the site will be classed as Groundwater Dependent Terrestrial Ecosystem. Whilst the EIAR concludes that the site has low groundwater dependency, the habitats are nevertheless protected and SEPA would expect the developer to avoid these locations in the first instance. Where avoidance is not possible, SEPA expect robust mitigation to be provided to ensure hydrological connectivity is maintained. This matter could be addressed through planning conditions if permission is granted.

Peat

- 9.9.10 SPP paragraph 205 states that where peat and other carbon rich soils are present, applicants should assess the likely effects of development on carbon dioxide (CO₂) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO₂ to the atmosphere. Developments should aim to minimise this release. The EIAR states that the scheme design has avoided the location of class 1 peat and there are no areas of class 2 peat. NatureScot do not object to the proposal in respect to impact on Carbon-rich soils, deep peat, and priority peatland habitat. There is an area of Class 1 peat 90m east of Turbine 5 and NatureScot have noted that micro-siting should not be permitted that would jeopardise this area. NatureScot welcome the outline habitat management plan, which has identified an area of 28ha for peat restoration and is aiming for net gain of functioning peatland of 18.6ha. The potential would be further enhanced if the habitat in the key-holing areas were also to be restored to peatland, assuming they are located on peat of average depth 1.0m. NatureScot note that a detailed Peat Management Plan and Construction Environmental Management Plan are required to demonstrate how the mitigation proposed in the application documents will be incorporated into the construction activities.

9.9.11 Notwithstanding the positive response from NatureScot, SEPA have issued a holding objection in respect to the potential impact on the peat resource within the site. SEPA do not consider that the applicant has minimised the excavation of peat of one meter or greater depth. SEPA note that areas around T1, T2, T3, T7, T10 and T13 and the substation would all be classed deep peat. Furthermore, some sections of new track would be built on areas of deeper peat. SEPA require evidence that through micro-siting, use of floating tracks and use of geotextile surfaces for blade storage, etc, that the amount of peat excavated can be reduced. SEPA further advise that where this cannot be achieved, turbines should be removed from the plan unless sufficient justification can be provided. SEPA have also requested further information to demonstrate how peat removed can be reintegrated into a functional peatland system. The proposed 3.5 metre peat verges are considered excessive unless they tie into existing peatland and the reuse of peat for restoration of the borrow pits should be limited to the depth that exists currently in these locations (e.g., average 0.47m) to ensure functionality and ensure that the peat does not dry out. Borrow pit areas would also need to be hydrologically linked with the surrounding peatland areas (which may not be appropriate for borrow pits 3 and 4). Peat should not exceed a maximum of 2.0 metres deep within the borrow pits.

Deer

9.9.12 The site is currently used by both roe and red deer. The scope and scale of the forest operations mean that displacement of deer as a result of the development is not anticipated. Notwithstanding, NatureScot advise that monitoring of deer impacts on the aims of the Habitat Management Plan should be included within the HMP. Should monitoring show that deer impacts are preventing the achievement of the HMP objectives, deer management should be reviewed.

Borrow Pits

9.9.13 The Scottish Government included within Scottish Planning Policy (paragraph 243) a new approach to the use of borrow pits for wind farm construction. Borrow pits can be extensive areas within the site of a windfarm and are commonly used for the extraction of sand and aggregates used in the associated developments such as crane pads, compounds and the upgrade and delivery of access routes etc. The policy advice is to limit their use and only to permit them on site if there are significant environmental or economic benefits compared to obtaining material from local quarriers. The Initial Borrow Pit Assessment submitted with the application (refer to EIAR Appendix 6.6) indicates that there is likely to be sufficient mineral resources available on-site to meet all of the aggregate requirements for construction of the wind farm. Sourcing the aggregate on-site would result in a significant reduction in HGV traffic on the road network. This would significantly benefit road users within the immediate vicinity of the access points to the proposed wind farm site in terms of convenience and safety. There would also be a reduction in CO2 emissions from the construction of the wind farm albeit that this CO2 saving has not been quantified within the EIAR. The borrow pit locations are not prominent within the wider landscape setting and the noise and vibration assessment provided within the EIAR indicates that there would be no adverse impact on the nearest dwellings. The Hydrology Chapter did not identify any significant risk of contamination of groundwater or surface water. Subject to conditions controlling blasting and reinstatement, it is considered that the proposed borrow pits are acceptable and will have beneficial effects for road safety and climate change.

Conclusions on Aviation, Defence, Broadcasting, Cumulative Impact and Other Matters

- 9.9.14 Both Glasgow Prestwick Airport (GPA) and NATS have issued holding objections. The safeguarding assessment carried out by GPA has identified potential adverse effects on the Airport's primary surveillance radar, secondary surveillance radar and the VHF/UHF communication equipment. Gradual erosion of airspace through wind farm development has the potential to compromise safety, flexibility, capacity and potentially the viability of the airport. Therefore, the Supplementary Guidance for Wind Energy requires developers to demonstrate that their development does not impinge on the current operation of Glasgow Prestwick Airport and applicants are required to demonstrate agreement between themselves and the relevant operator that mitigation can be delivered within a reasonable timeframe and provide appropriate mitigation. No such agreement has been reached at this time and the proposal is therefore contrary to this aspect of the Supplementary Guidance Criterion F.**
- 9.9.15 The assessment of the proposal under Criteria A and B (landscape and Visual Impact) above has identified adverse cumulative impact on the landscape character of the immediately adjoining Landscape Character Types (Rugged Uplands, Lochs and Forest LCT and Intimate Pastoral Valley LCT) and the associated landscape designations of Merrick Wild Land Area, High Carrick Hills Local Landscape Area, Water of Girvan Local Landscape Area, and the Stinchar Valley Local Landscape Area. Cumulative adverse visual impact has also been identified on popular walking routes within the High Carrick Hills LLA (represented by Viewpoint 5), from Craigengower Hill near Straiton (Viewpoint 8) as well as from more informal walking routes around Pinbreck Hill and Rowantree Hill which lie on the southern outer edge of the Stinchar Valley. Cumulative adverse visual impacts are also anticipated from the Straiton to Newton Stewart minor road. The combined visual effects of the proposal and the application stage Knockcronal wind farm would result in an adverse impact on Residential Visual Amenity at Tairlaw Toll Cottage. An adverse impact on Residential Visual Amenity is also anticipated at Glenalla due to combination of the current proposal and the Knockcronal and Craiginmoddie proposed application stage wind farms. Having regard to the identified cumulative landscape and visual impact, the proposal is considered to be contrary to criterion G of the Supplementary Guidance.**
- 9.9.16 SEPA have issued a holding objection in relation to the possible impact on the peat resources within the site. SEPA do not consider that the applicant's proposals have minimised the excavation of peat of depth greater than one metre as required by Scottish Planning Policy and Criterion H of the Council's Supplementary Guidance. SEPA have advised that additional information is required to demonstrate how the disturbance of peat can be reduced. SEPA have additionally raised concerns over the manner in which surplus peat would be used in the reinstatement of the access track verges and the borrow pits. Given the holding objection response provided by SEPA, it is considered that the proposal is potentially contrary to Criterion H in relation to Peat.**

10. Other Significant Policy Considerations

National Climate Change Policy, Energy Policy and Planning Policy

- 10.1 The Scottish Government's policies, commitments and targets for sustainable energy are set out in 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), Consultative Draft Onshore Wind Energy Statement Refresh 2021, and The Scottish Climate Change Plan 2018 to 2032 (2020 update).

National Planning Policy Framework 3

- 10.2 The vision set out in NPF3 includes a growing low carbon economy. The greenhouse gas reduction targets set out in the Climate Change (Scotland) Act 2009 are integrated into national planning policy. The PPF3's policies address steps required within spatial planning to achieve the targets not only in energy generation, but in a range of sectors including land use management, waste management, urban infrastructure, sustainable water management, peatland restoration and transport. NPF3 refers to the spatial framework provided by SPP for wind-energy development as guiding new wind energy development to appropriate locations, taking account of important features such as Wild Land. It encourages diversification in the energy sector and indicates the Government's expectation that the pace of onshore wind will be overtaken by a growing focus on marine-energy opportunities. Members should note that NPF3 is currently being reviewed and a "Position Statement on NPF4" was published in November 2020. The Position Statement provides an indication of the direction of travel. It is important to note that the Position Statement is not a policy document and is not a material consideration in the assessment of the current proposal.

Scottish Planning Policy 2014

- 10.3 Includes among the four outcomes it seeks that Scotland should be a successful, sustainable place, and a resilient place. It incorporates statutory targets for reduction of carbon emissions. In this context it sets out the renewable energy targets and the principles for spatial frameworks and it also makes it clear that the individual merits of a wind-energy proposal require to be carefully considered against the list of considerations set out in paragraph 169. This is in line with the principle that sustainable growth should ensure the right development in the right place.

Conclusion on National Policy

- 10.4 **NPF3 and SPP are the primary statements on national planning policy for onshore wind. Whilst these documents predate more recent policies/strategy documents, advice and targets relating to climate change, there is no indication from the Scottish Government that the national policy move from low carbon to net-zero carbon has changed the decision-making criteria or parameters for onshore wind in individual cases. The move to a net zero target has the effect of altering the requirements imposed on the Scottish Ministers in relation to electricity generation and also to the concomitant decarbonisation of heat and transport. There has been and continues to be strong support for onshore wind but only if it is the right development in the right place. There is nothing express in the Climate Emergency Declaration, the national strategies for climate change and renewable energy that would indicate a departure from policy as set out in NPF3 or SPP. Whilst the National Planning Framework is currently being reviewed the Draft Fourth National Planning Framework laid before the Scottish Parliament on 10 November 2021 makes it clear that NPF3 and SPP remain in place until NPF4 is adopted by Ministers. As with the assessment against the provisions of the LDP, it considered that the proposed development is therefore not fully in accordance with Scottish Planning Policy.**

11. Benefits of the Proposed Scheme

- 11.1 The Planning Statement submitted with the application lists the main benefits of the proposed wind farm as:
- i. 140 net jobs per annum in South Ayrshire over the construction period (the total net Gross Value-Added contributions over this period would be £8.8 million per annum)
 - ii. 99 gross jobs in South Ayrshire and a Gross Value-Added contribution of £5,871,191 generated during the operational lifetime of the proposed development
 - iii. anticipated nominal capacity of approximately 86 MW and annual generation estimated at 255.5 GWh based on an operational capacity figure of 34% (sufficient to power 71,421 average UK households)
 - iv. the scheme will contribute towards the urgent requirement to reduce carbon emissions to meet Scotland's Climate Change legal obligations
 - v. development would 'pay back' the carbon emissions associated with the scheme's construction, operation and decommissioning in 3.5 years applying the Grid Mix replacement scenarios. Assuming a 40-year life span this equates to an overall carbon saving of 11 times the carbon emitted.
 - vi. The proposed storage facility would provide a rapid and flexible release and storage of electricity to allow the national grid to regulate electricity supply and demand (e.g., grid balancing).
 - vii. The proposal will make use of existing infrastructure including forest access tracks, two borrow pits and a 275 kV overhead powerline located on the southern edge of the site.

- viii. It is expected that the proposed development will establish a community benefit arrangement with local communities. It is expected that the community development funds would provide enhancements to the local area by upgrading sections of existing forest tracks.
- ix. The local community would also have the opportunity to invest in the proposed development through the shared ownership/community investment scheme
- x. In addition to mitigating the adverse impacts of the development the applicant is committed to enhancing the nature conservation and landscape value of the site. The key focus of the Habitat Management Plan is restoration of blanket bog. The Outline Habitat Management Plan proposes the restoration of 28 ha of bog which in turn will give rise to other biodiversity benefits for example for invertebrates, amphibians, and ground nesting birds.

12. Conclusion

- 12.1 **In conclusion, having considered the applicant's Environmental Impact Assessment Report and supporting documentation and notwithstanding the identified benefits of the scheme, together with the consultation responses received and having balanced the developer's interest against the wider community interest it is recommended that an objection be submitted to the Scottish Government.**

13. Recommendation

- 13.1 It is recommended that the Regulatory Panel notes that this report has been submitted as an objection to the Scottish Government, for the reasons (a), (b), (c), (d), (e) and (f) listed below. It is also recommended that comment g) below is submitted to the Scottish Government.
- 13.2 That the Regulatory Panel 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).

Reasons For Objection

Landscape and Visual Impact

- (a) **That the proposed development is contrary to South Ayrshire Local Development Plan policies 'Wind Energy – Criterion a), b) and c)', 'Sustainable Development' and 'Landscape Quality' and South Ayrshire Supplementary Guidance on Wind Energy and SALWCS on the basis of significant adverse landscape and visual effects due to the scale and positioning of the proposed turbines on their own and in combination with other proposed/application stage wind farms in the surrounding area. It is not considered that the significant adverse landscape and visual effects of this wind farm could be mitigated by reducing the size and or number of turbines, with the location being inappropriate given the sensitivity of nearby landscapes and designations. There is no reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.**

Landscape and Visual Impact – Aviation Lighting

- (b) That the proposed development is contrary to South Ayrshire Local Development Plan policies ‘Wind Energy – Criterion a) and b) and LDP Policy Air, Noise and Lighting Pollution and the Supplementary Guidance: Dark Sky Lighting by reason that the applicant has not demonstrated that aviation lighting would not introduce intrusive and prominent lights into an area important for dark skies, thus adversely impacting upon views from the Merrick Wild Land Area and the Galloway Dark Sky Park. There is no reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

Landscape & Visual Impact – Tourism and Recreation Resources

- (c) That the proposed development is contrary to South Ayrshire Local Development Plan policies ‘Wind Energy – Criterion a), b) and c)’, ‘Sustainable Development’ and ‘Landscape Quality’ and South Ayrshire Council Supplementary Guidance on Wind Energy and SALWCS on the basis of significant adverse landscape and visual effects due to the scale and positioning of the proposed turbines and the associated impacts of these effects on the tourism and recreational resource of the locality including the; Merrick Wild Land Area, Galloway Forest Park, The Dark Sky Park, Galloway and Southern Ayrshire Biosphere, High Carrick Hills Local Landscape Area, the Water of Girvan Valley Local Landscape Area and important viewpoints from the Straiton to Newton Stewart road, Core Path SA47 and Craigenhower Hill (Colonel Hunter Blair monument) in the Upper Girvan Valley; the public road between Milton Bridge and South Balloch within the Upper Stinchar Valley and from the summits of Cornish Hill and Shalloch on Minnoch and the interior of the Merrick Wild Land Area and the informal walking routes on the Pinbreck and Rowantree group of hills within the High Carrick Hills. The required aviation lighting will extend the adverse landscape and visual effects into the darker hours. Whilst mitigation for aviation lighting is proposed, only limited weight can be attached to the particular solution proposed in the application due to the lack of endorsement by the relevant aviation authority.

Landscape & Visual Impact – Residential Visual Amenity Impact

- (d) That the proposed development is contrary to South Ayrshire Local Development Plan policies ‘Wind Energy – Criterion C), ‘Sustainable Development’ and South Ayrshire Council Supplementary Guidance on Wind Energy by reason that the proposed development would have a significant and overbearing impact upon the residential visual amenity of a nearby residential dwelling at Tairlaw Toll Cottage. Furthermore, the proposed development, in combination with the application stage Craiginmoddie Wind Farm, will have a significant and overbearing impact upon the residential amenity of the nearby dwelling at Glenalla. There is no over-riding reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

Glasgow Prestwick Airport

- (e) That the proposed development is contrary to South Ayrshire Local Development Plan policies 'Wind Energy – Criterion f), 'Sustainable Development' and South Ayrshire Council Supplementary Guidance on Wind Energy on the basis that the developer has not demonstrated at the time of consideration of the application and finalising the Council's recommendation that their development does not impinge on the current operation of Glasgow Prestwick Airport as an agreed radar mitigation is not in place and available and maintained for the lifetime of the windfarm. There is no reason to depart from South Ayrshire Local Development Plan policy or Supplementary Guidance on Wind Energy.

Peat Resources

- (f) Having regard to the holding objection issued by SEPA it is not considered that the proposals have sufficiently demonstrated that the excavation of peat of depth greater than one metre has been minimised, as required by Scottish Planning Policy and Criterion H of the Council's Supplementary Guidance. The proposal is therefore contrary to South Ayrshire Council Local Development Plan policies 'Wind Energy – criterion H', 'Sustainable Development' and South Ayrshire Local Development Plan Supplementary Guidance on Wind Energy.

Comment To Scottish Government

Should the Scottish Government be minded to grant this application, South Ayrshire Council requests that it be consulted on proposed conditions prior to the grant of the permission. In addition to the mitigation measures identified within the EIA Report that require to be conditioned alongside those conditions sought by consultees in response to the ECU, the following additional matters have been identified through the Council's internal assessment and consultation process. From a Council perspective, it is fundamental that these matters are considered and attached given that in most cases, the acceptability of the proposed development as set out by consultees in their response is predicated on the understanding that the conditions they have stipulated, would be included as mitigation. The topic areas which will require to be addressed through conditions are summarised below.

Roads and Transportation

- i. agreement of standard of access junction construction onto public road
- ii. prior approval of access route for Abnormal Indivisible Loads & works required to facilitate passage of abnormal loads
- iii. provision and maintenance of junction visibility splays
- iv. prevention of discharge of water onto public roads
- v. minimum distance between turbines and edge of public road
- vi. responsibility and standards for any road widening required for passage of abnormal loads
- vii. inspection of public structures including Tairlaw Bridge
- viii. Construction Traffic Management Plan

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. Scottish Planning Policy (SPP)**
- 5. Historic Environment Scotland Policy Statement**
- 6. Managing Change in the Historic Environment – Setting**
- 7. Planning Advice Note 2/2011 ‘Planning and Archaeology’**
- 8. Adopted South Ayrshire Council Local Development Plan**
- 9. Proposed South Ayrshire Local Development Plan 2**
- 10. South Ayrshire Council Supplementary Guidance: Wind Energy (Adopted 2015)**
- 11. South Ayrshire Landscape Wind Capacity Study 2018**
- 12. South Ayrshire Local Landscape Designations Review (2018)**
- 13. South Ayrshire Supplementary Guidance: Dark Sky Lighting (Adopted 2016)**
- 14. SNH Guidance – Siting and Design of Windfarms 2017, V3a**
- 15. Residential Visual Amenity Assessment Technical Guidance Note 2/19 (Landscape Institute)**

Person to Contact

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