

EAST AYRSHIRE COUNCIL**PLANNING COMMITTEE – 22 MARCH 2024****Report by the Chief Governance Officer**

SUBJECT: CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF A WIND FARM COMPRISING UP TO 9 WIND TURBINES OF UP TO 200M IN BLADE TIP HEIGHT AND ASSOCIATED INFRASTRUCTURE INCLUDING SITE ACCESS AND ACCESS TRACKS, SUBSTATION COMPOUND AND COMMUNICATIONS MAST, BORROW PITS, HARDSTANDS AND CRANE PADS, TEMPORARY CONSTRUCTION COMPOUNDS AND BATTERY ENERGY STORAGE SYSTEM. DEVELOPMENT INCLUDES A WIND FARM GENERATING CAPACITY OF UP TO 54MW AND BESS GENERATING CAPACITY OF UP TO 45MW AT SCLENTEUCH WIND FARM LAND TO WEST OF A713 NEAR WATERSIDE (22/0004/S36)

Click for Application Details: <https://eplanning.east-ayrshire.gov.uk/online/applicationDetails.do?activeTab=summary&keyVal=RH2LD3GF05700>

Purpose of report

1. The purpose of this report is to present for consideration of the Planning Committee under the scheme of delegation a formal consultation from the Scottish Ministers on an application made under Section 36 of the Electricity Act 1989 for the proposed Scienteuch wind farm and for the Planning Committee to take a formal view of the proposed development. The Section 36 application includes an application for deemed planning permission for the same development under Section 57(2) of the Town and Country Planning (Scotland) Act 1997.

Recommendation

2. It is recommended that the Council raises no objection to the proposed development subject to:
 - The conclusion of a Section 75 Legal Agreement between the Applicant and the Council prior to the issue of the Section 36 consent and deemed planning permission by the Scottish Government, or agreement, to the satisfaction of the Planning Authority, of another arrangement to secure a legal obligation, to include those matters listed within the Legal Implications section of the committee report, and
 - The attachment to the deemed planning permission of planning conditions to address the matters listed below, the detail of which is to be agreed by the Planning Authority in discussion with the Scottish Government and the Applicant.

Background and history of application

3. The Scottish Ministers are responsible, under Section 36 of the Electricity Act 1989, for the authorisation of any new, or extensions to existing, electricity generation schemes with a generation capacity in excess of 50 Megawatts (MW). As the proposed wind farm would have an installed capacity of up to 54MW and a further 45MW through the proposed Battery Energy Storage System (BESS) forming part of the overall wind farm development, East Ayrshire Council has been formally consulted by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989.
4. The Council is a formal consultee in this process. In procedural terms the Council, as Planning Authority, requires to provide a response to the Scottish Ministers. In this regard, the Council in response to the consultation can either:
 - (i) Offer no objection to the Section 36 application as submitted;
 - (ii) Offer no objections subject to the imposition of appropriate conditions and/or legal obligations it considers necessary to make the development acceptable, or
 - (iii) Object to the application, stating the grounds on which objection is made.
5. Should the Scottish Ministers be disposed to grant a Section 36 consent for the proposed wind farm, the Applicant has requested that deemed planning consent be granted in terms of Section 57 of the Town and Country Planning (Scotland) Act 1997. A separate application for planning permission would not, therefore, be required for the proposed development.
6. In terms of history to this application, there was previously an application, with a site boundary across much the same site as the current proposal, for Keirs Hill wind farm submitted to the Scottish Government in November 2013 under Section 36 of the Electricity Act 1989. That scheme comprised 17 turbines at 149.9m in height and associated infrastructure. The Council agreed at the 8 August 2014 Planning Committee to formally object to the proposed Keirs Hill wind farm in its formal consultation response to the Scottish Government. Subsequently a Public Local Inquiry was held between 28 September to 2 October and 5 October 2015, with hearing sessions taking place on 6 and 7 October 2015. The Reporter's report and recommendation was issued on 29 July 2016 recommending to Scottish Ministers that consent under Section 36 of the Electricity Act 1989 be refused, with the 149.9m height of the turbines proposed being noted as having a very serious visual impact due to the turbines being out of scale with the landscape within which they would sit, and for those same reasons would adversely impact on local communities, namely Waterside, and immediately associated properties, and unacceptable significant impacts on historic sites, notably the Waterside ironworks. Scottish Ministers agreed with the Reporter's reasoning and conclusions and adopted them for the purposes of their decision and consequently refused the application for consent on 22 November 2016.

7. The Applicant's submission for the currently proposed Scienteuch wind farm notes that the proposed development seeks to address the need to tackle climate change whilst also addressing the key concerns raised in the Reporter's report following the Public Local Inquiry for the Keirs Hill wind farm, primarily landscape and visual impacts, residential amenity impacts and impacts on historic sites.

Application details

8. **Site Description:** The application site is located on land across both East Ayrshire Council and neighbouring South Ayrshire Council. The site is located on the upper slopes of the Doon Valley to the west of the A713 and comprises moorland and peatland with commercial forestry over the majority of the application site. The site is proposed to be accessed via an existing access (which is to be upgraded) off the A713 whilst a secondary access will be taken from the south of the site from the B741. The closest settlements to the proposed development are Waterside and Patna immediately to the east and north, and Dalmellington to the south-east. Out with the settlements there are numerous scattered farms and residential properties, the closest of which in East Ayrshire is High Keirs, adjacent to where the proposed access track shall be routed.
9. The application site varied in elevation from highs of approximately 306m AOD in the approximate centre of the site, down to lows of approximately 160m AOD to the east of the site where access is proposed from the A713 in the Doon Valley.
10. The proposed development falls within two different Landscape Character Types (LCTs) as defined within the East Ayrshire Landscape Wind Capacity Study (EALWCS) which are LCT 17b: Foothills with Forestry west of the Doon Valley, and LCT 10: Upland River Valley. The majority of the proposed infrastructure in East Ayrshire would fall within the former whilst the latter LCT would only see access track sections formed and a temporary construction compound.
11. **Proposed Development:** The proposed development of Scienteuch wind farm would have a generating capacity in total of approximately 54MW (excluding the BESS, 99MW including the BESS). The main components of the proposed development include:
- Up to 9 wind turbines consisting of 4 turbines with a maximum blade tip height of 180m (T5, T6, T7 and T9) and 5 turbines with a maximum blade tip height of 200m (T1, T2, T3, T4 and T8);
 - Low to medium voltage transformers and switchgear at each turbine;
 - Turbine foundations and crane hardstandings;
 - Substation compound including communication mast;
 - Access tracks including passing places, watercourse crossings and site entrances;
 - Battery Energy Storage System (BESS) up to 45MW generating capacity;
 - Borrow pits;
 - Improved and new walking trails, footbridges and pass through gates for pedestrian access;
 - Habitat management, and
 - Temporary construction compounds, working areas and laydown areas (to be removed at the end of the construction period).

12. In terms of the split between East Ayrshire and South Ayrshire Councils, all infrastructure proposed shall be located within East Ayrshire with the exception of turbines T1, T2, T3 and T4 (and their associated crane pads and hard standings) and access tracks leading to these turbines.
13. To facilitate the proposed development there would be tree felling proposed and compensatory planting onsite would replace this.
14. There would be a temporary construction period of approximately 14 months with a proposed operational lifetime of 50 years and thereafter a period of decommissioning, restoration and aftercare.
15. The proposed turbine delivery route is expected to be King George V docks in Glasgow (for the turbine blades) and/or Port of Ayr for other turbine components before travelling south on the A77 and then south-eastwards on the A713 to the site access point.

Consultations and issues raised

16. The Council is a consultee in the Section 36 application process and therefore consultation by the Council is limited to Council departments and associated organisations/consultants. As such, a summary of the wider consultation responses received by the Scottish Government is also included below, as these may be relevant to the view of the Council.
17. **Ayrshire Roads Alliance (ARA)** – Have not raised any objections to the proposed development though have set out a series of conditions and advisory notes to be attached to any consent, if granted by the Scottish Ministers. Matters ARA wish to be addressed by condition include the submission and approval of a Construction Traffic Management Plan (CTMP); evidencing visibility splays are capable of being achieved and site access points being constructed to a commercial standard with a 9m radius provided; that all turbines be positioned a distance from the public road of at least equal to 125% of the overall turbine to blade tip height; Applicant being responsible for any land acquisition and maintenance required adjacent to the public road to allow passage of abnormal loads where the swept path cannot be contained within the existing road widths; Before and after structural inspections with ARA and video surveys; details of swept path analysis; Travel plan for staff to identify measures to reduce single occupancy private car trips to site, and no discharge of water from site onto the public road network.

Advisory notes relate to Section 96 and 69 Agreements under the Roads (Scotland) Act 1984 which the Applicant will require to enter into with ARA, and other associated matters including the requirement for a Road Opening Permit prior to any works commencing on site.

18. **Ayrshire Roads Alliance (Flooding)** – ARA flooding note that two accesses are proposed so the site can be accessed during a flood event. ARA flooding note that the A713 (eastern) site access is within the 1:200 year flood plain + climate change addition, though note there would be no objection to the application from a flooding perspective subject to a condition relating to this site entrance with the potential replacement river crossing, ensuring that any new crossing does not hinder the flow of the river any further than the existing crossing could. ARA flooding also advise the Applicant to be aware of the flood risk and that water resistant forms of construction and materials during all works are utilised.

- 19. Environmental Health** – Offered a number of comments regarding certain restrictions on noise from construction works, also noting they accept the views of the Council's noise consultant, ACCON, in particular a condition to control amplitude modulation. With regards to Private Water Supplies (PWS) Grimmet Farm near Dalmellington was noted as having potential to have a supply impact due to the topography in the area and Environmental Health suggested a Mitigation Strategy should be prepared to deal with any impacts should they arise.
- 20. West of Scotland Archaeology Service (WoSAS)** – Have noted that Historic Environment Scotland do not object to the proposed development. WoSAS note there are issues with the Applicant's EIA Report concerning minimisation of direct issues raised by the proposals and for setting assessments of former non-statutory register sites, but as these sites are not scheduled ancient monuments, WoSAS would not advise refusal on that basis. WoSAS note the large area of ground to be disturbed by the proposed development means there is a good chance of unearthing visible or buried unrecorded remains which could be from any period, and as such potential direct archaeological impacts could arise. WoSAS request a condition relating to a Written Scheme of Investigation for archaeological features be secured and, once approved, implemented on site to ensure any features encountered are handled and recorded appropriately.
- 21. ACCON UK Ltd (ACCON)** (Council's noise consultants) – Were consulted on the application. A summary of ACCON's conclusions is as follows:-

“The methodologies used in the operational noise assessment represent good practice and are in line with ETSU-R-97 and the IOA Good Practice Guide for wind turbines. The assessment has demonstrated that the proposed development when considered in isolation would meet noise limits derived in accordance with ETSU-R-97. A cumulative noise assessment, taking account of the proposed Scienteuch turbines and the existing Dersalloch wind farm to the south, has also demonstrated that correctly derived noise limits would not be exceeded.

ACCON recommend that any consent for the proposed wind farm should be conditioned with operational noise limits based on those presented in the planning condition proposed by the applicant. The proposed limits are in line with those derived for the noise assessment that considers the proposed development operating in isolation.

A condition to control amplitude modulation would also be appropriate which could be based on a model condition published in an IOA Acoustics Bulletin article (November/December 2017 edition).

Given the proximity of the proposed development to Dersalloch wind farm, we recommend that a planning condition should require that a protocol be submitted to East Ayrshire Council and South Ayrshire Council setting out in detail the sequence of noise measurements and actions required to investigate any noise complaint such that the wind farm responsible for potential breaches of their limits can be identified. The condition should ideally require the submission of such a protocol and agreement of its content by the planning authorities before commencement of construction of the development.

With a suitably worded planning condition limiting normal construction activities to typically adopted construction working hours, ACCON consider that there would be no significant effects from construction noise. A suitably worded planning condition should be provided to control vibration and air overpressure from blasting.

Subject to the adoption of appropriate operational noise limits and conditions to control construction noise and blasting, ACCON consider that there would be no over-riding reason for refusal in respect of noise.”

- 22. Ironside Farrar Ltd (IFL)** (Council’s independent consultants) – Were consulted on the application, notably on Landscape and Visual Impact Assessment (LVIA) and Residential Visual Amenity Assessment (RVAA) matters. More discussion and summary of IFL’s report is detailed within the Material Considerations section of this report and their findings discussed throughout the report in the relevant sections of the main assessment. IFL’s audit can be read as a background paper for their full comments and these have not been replicated in full within this report. A summary of some of IFL’s key observations is as follows:-

With regards to the Applicant’s LVIA, IFL note,

*“1. **Methodology:** The proposed methodology follows current best practice. However, we note some issues in its detailed application and an inconsistent approach to the assessment of cumulative effects. This is addressed in our review of detailed assessments.*

*2. **Baseline:** The extent of the baseline and scoping of landscape and visual receptors is mostly reasonable. However, we question why effects to the character of Gardens and Designed Landscapes are not assessed, particularly when considering potential visibility from parts of the Craigengillan GDL indicated on the ZTV. We consider also that the small settlement of Burnton should be included in the assessment. Finally, we note the ambiguity of whether or not operational wind farms are included in the cumulative assessment baseline.*

*3. **Mitigation:** The assessment highlights the design measures intended to limit the adverse landscape and visual effects of the proposed development, relative to the previous Keirs Hill application which was dismissed following an inquiry. The extent of reduction of effects will be critical to consideration of this application.*

*4. **Landscape Effects:** We broadly agree with the findings of the assessment that significant effects to landscape character within East Ayrshire are restricted to parts of the LCT 17b Foothills with Forest West of Doon Valley and LCT 10 Upland River Valley – the Doon Valley. However, we consider that key sensitivities of the Doon Valley SLA would be adversely affected, and these effects should therefore be considered significant to the integrity of the whole designation.*

*5. **Visual Effects:** While we agree with most assessments of significant visual effects, we consider the approach taken to some detailed assessments has reduced the probable level of effect that would be experienced by receptors:*

- Some assessments of receptor sensitivity and magnitude of change are too low*
- Combinations of sensitivity and magnitude often lead to a lower level of change than should be the case.*
- Some LVIA assessments on the significance of visual effects are ‘averaged’ of across large areas or long routes based on the scale of*

effect and the extent across which it would be experienced. They do not identify more localised significant effects.

6. RVAA: *We agree with most of the assessment but consider that the proximity of the turbines to High Keirs Cottage and their skyline location could lead to significant adverse effects on residential visual amenity.*

7. Aviation Lighting Effects: *We broadly agree with the approach and conclusions. However, we do not consider aviation lighting effects to be a wholly visual matter and that when seen from small settlements with night time lighting, red aviation lights can be noticeable due to their red colour and position on a skyline otherwise devoid of lighting.*

8. Cumulative Effects: *The cumulative assessment is reasonably thorough and identifies the most significant effects. We note however a lack of clarity and consistency in the explanation of the method and what is being assessed in the two scenarios. It is not clear in the detailed assessments as to whether operational and under construction wind farms are included in the baseline and whether the level of effect is based on the additional or in-combination effects of adding Scienteuch to the baseline."*

23. The following were also consulted however no responses were received:

East Ayrshire Council Countryside Access Officer; Dalmellington Community Council; Drongan, Rankinston and Stair Community Council; Ochiltree Community Council and New Cumnock Community Council.

24. The Scottish Government consulted widely on the Section 36 application and a list of those who have responded, along with a summary of their comments, as shown on the Energy Consents Unit website, are provided below.

25. **NatureScot** – advise that the proposed development would result in significant day time and night time impacts on the Wild Land Qualities (WLQs) of the Merrick Wild Land Area (WLA) on the sense of remoteness and sanctuary which underpins the WLQs. Cumulative night time effects on the WLA with other application stage wind farms would result in significant night time effects on the sense of remoteness, sanctuary and solitude which underpins the WLQs. NatureScot advise the proposed development would intensify the effects of turbine lighting in combination with Knockkippen wind farm in views north from the upland areas of the WLA and would also contribute to wider significant effects of turbine lighting to the north-west and north of the Wild Land Area, which combined would lead to the irrevocable loss of attributes of naturalness, remoteness and sanctuary which underpin the WLQs. NatureScot acknowledge the change in policy context for Wild Land Areas in Scotland since the adoption of NPF4. NatureScot's view of the consequence of Policy 4(g) of NPF4 is that the effects of the proposed development out with the Wild Land Area on the qualities of the Wild Land Area would not be a significant consideration for Scottish Ministers in determining the application.

More generally in terms of landscape and visual impacts, NatureScot consider a number of significant landscape and visual effects would occur as a result of the proposed development. This includes: on Landscape Character Type 10 Upland River Valley due to the addition of further industrial-scale structures visible in the broader view, also occurring at night due to the effects of aviation lighting; Sensitive receptors in the Doon Valley including residents of individual dwellings and the settlements of Patna, Burnfoot and Waterside where the height of the turbines

combined with their position approximately 150m above these receptors, their moving character, and location within 1.25-2.25km would cause significant effects on their visual amenity, also occurring at night due to aviation lighting; Core paths within the Doon Valley, from Patna to Straiton; and Minor roads within 5km, the A713 and B741 day and night due to sequential and static views to the turbines located on the skyline. Considering future cumulative context scenarios, NatureScot note that should Knockkippen wind farm be progressed to an operational stage, it is likely there would be some significant cumulative day and night time effects on receptors located within the Doon Valley with Scienteuch wind farm, particularly given the elevated positions of both wind farms relative to the valley.

In terms of ecological interests NatureScot advise there will be no likelihood of any significant effects on any national or international statutory natural heritage designations. NatureScot recommend that a Breeding Bird Protection Plan (BBPP) is developed alongside a Construction Environmental Management Plan (CEMP), detailing the proposed pre-construction surveys for breeding birds encompassing areas of suitable nesting habitat within potential disturbance distance of proposed works. The BBPP should also detail appropriate buffers to be implemented around any active nest. With regards to bats, NatureScot advise that turbine blades should be feathered while idling in order to reduce their rotation speed. Guidance notes this can reduce fatalities by up to 50% without loss of output. NatureScot also advise a programme of post-construction monitoring be implemented to determine the efficacy of the mitigation and a requirement for additional mitigation to be implemented where monitoring shows this is necessary. NatureScot also welcomes the Applicant's commitment to undertake pre-construction surveys for mammals.

With regards to aquatic life, NatureScot are content that measures including pollution prevention and sediment control measures, alongside a Water Quality and Fish Monitoring Plan (WQFMP) that will include pre-construction, construction and post-construction water quality and freshwater pearl mussel surveys will minimise potential impacts on this species, and on fish species more generally, which also have suitable habitats within the River Doon, Lochhead Burn and Keirs Burn.

NatureScot advise, given the Scottish Government's commitment to improving the extent of healthy peatlands, and the condition of damaged peatlands, that it is important that any land use change with the potential to result in loss of or damage to peatlands is either diverted to other areas or, if appropriate, adequately mitigated to compensate for this. NatureScot advise the intention to float the access track over the Class 1 nationally important peatland is an appropriate means of reducing habitat impacts with the full details and specification of this being detailed in a CEMP for approval by the Planning Authority. NatureScot also welcome the Applicant's intention to produce a Habitat Management Plan (HMP) (an outline of which should be submitted before the application is determined by Scottish Ministers). Restrictions on micro-siting turbines on areas of deeper peat (peat over 1m in depth) should be reflected in any conditions of any consent issued.

- 26. Scottish Environment Protection Agency (SEPA)** – SEPA initially objected to the proposed development pending further information regarding Private Water Supplies (PWS) and the reuse of peat. Upon receipt of further information from the Applicant, SEPA removed their objection subject to conditions. SEPA note that the further information confirms only one borrow pit is proposed, whilst wording from the outline Peat Management Plan has been amended to address reuse of peat from elsewhere on site within the restoration of the borrow pit. SEPA also noted additional information confirmed the sources of PWS04, PWS05 and PWS06 and that no PWS sources were identified within SEPA's prescribed buffer zones from wind farm infrastructure.

SEPA requested that a condition be attached to any consent, should Scottish Ministers grant consent, stipulating micrositing restrictions. SEPA also noted that although the Applicant's EIA Report suggests some of the potential Groundwater Dependent Terrestrial Ecosystems (GWDTEs) on site are rainfall fed, SEPA expect these habitats to be avoided and recommend turbine T9 be microsited to the west to prevent disruption to surface water flow paths. SEPA also want upgrade works on areas of access track to the south to be undertaken on the opposite side of areas of GWDTE habitat. SEPA also recommend that the Environmental Clerk of Works (ECoW) inspects areas subject to felling and any areas of springs or flushes be marked and avoided. SEPA also recommend that a Habitat Management Plan be submitted to mitigate against general habitat loss.

- 27. Scottish Water** – Scottish Water has no objection to the planning application, however the Applicant should be aware that this does not confirm that the proposed development can currently be serviced. Scottish Water advise the following: A review of Scottish Water records indicates there are no Scottish Water drinking water catchments or water abstraction sources which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected. For reasons of sustainability and to protect customers from future sewer flooding, Scottish Water will not accept any surface water connections into Scottish Water's combined sewer system.
- 28. Marine Scotland Science (MSS)** – MSS initially responded to the Scottish Government's consultation request, with a further response provided upon receipt of further information from the Applicant. MSS advise the fish habitat suitability assessment does not provide information about the presence and abundance of fish species in the watercourses within and downstream of the proposed development. As such there is insufficient information to fully assess the potential direct and indirect impacts on the fish populations as a result of the proposed development. MSS welcomes the proposed Water Quality and Fish Monitoring Plan (WQFMP) and reiterate baseline, pre-construction surveys should be carried out on all watercourses which are at risk of an impact for at least one year prior to construction commencing, and continue during construction, and be carried out for at least a year after construction is complete. MSS are content that a decommissioning and restoration plan will be prepared prior to the commencement of decommissioning and MSS advise that this document be prepared at least 12 months prior to decommissioning and this is outlined as a requirement in a planning condition.
- 29. The Coal Authority** – Confirm parts of the application site (predominantly eastern sections) falls within the defined Development High Risk Area, therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this application. On reviewing the proposed layout, the Coal Authority is pleased to note that all wind turbines and infrastructure avoid the recorded mine entries, however, the Coal Authority's concerns are regarding the risk of surface instability as a result of probable shallow coal mining within the area of the new and upgraded site track. The Coal Authority welcomes the submission from SLR Consulting which confirms that further site investigation works would be required to establish the extent of risk of probable shallow coal mining beneath the proposed access track, and the Applicant is aware that stabilisation groundworks may be required in the event shallow coal mining within influencing distance of the surface of the site is encountered. The Coal Authority has no objection to the proposed development subject to the imposition of conditions to secure a scheme of intrusive site investigations to establish the risk posed to the development from past coal mining activity and any remediation works

as necessary have been implemented on site to ensure the site is made safe and stable for the proposed development.

30. **Historic Environment Scotland (HES)** – HES's remit is 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. HES do not object to the proposed development as HES do not consider that they raise issues of national interest for heritage assets within its remit. The decision not to object should not be taken as support for the proposed development.
31. **MOD Defence Infrastructure Organisation (DIO)** – MOD advise that subject to conditions regarding aviation lighting and aviation charting and safety management the MOD would have no objection to the proposed development. The MOD note that the proposed development, given it falls within Low Flying Area 14 (LFA 14), has the potential to introduce a physical obstruction to low flying aircraft. To address this conditions requiring the development to be fitted with aviation safety lighting and submission of sufficient data to ensure structure can be accurately charted to allow deconfliction are requested. The MOD note that in the event of any amendment, whether considered material 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.
32. **Edinburgh Airport** – Confirmed that the location of the development falls out with its Aerodrome Safeguarding zone and therefore it has no objection/comment to make.
33. **Glasgow Airport** – Confirms that that the development has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria, so it has no objections to the proposal.
34. **NATS** – The proposed development has been examined by technical and operational safeguarding teams. A technical impact is anticipated which is determined to be unacceptable. Accordingly NATS objects to the proposal. This is due to available terrain screening not adequately attenuating the signal and the development is likely to cause false primary plots to be generated on the radar. A reduction in the radar's probability of detection for real aircraft is also anticipated.
35. **Glasgow Prestwick Airport (GPA)** – GPA must lodge an objection to this development until all technical and operational aviation safety matters are addressed to the satisfaction of the airport and a mitigation agreement is put in place for the lifetime of the windfarm. GPA is actively engaged with the Applicant to resolve the aviation safety issues. The safeguarding assessment process has identified potential adverse impacts on GPA's Primary Surveillance Radar, Instrument Flight Procedures and its VHF Ground to Air communications infrastructure. GPA also raises concerns in respect of cumulative impact due to other proposed windfarms in the vicinity of the proposed Scienteuch wind farm. The cumulative issues across the whole coverage volume are likely to result in GPA having to procure and install additional surveillance and communication equipment to address the cumulative impact of multiple windfarms in close proximity to each other. GPA note, should any aviation lighting scheme consider the use of Aircraft Detection Lighting System (ADLS) dependent upon Electronic Conspicuity (EC) Equipment, while solely a matter for the Civil Aviation Authority to consider, GPA respectfully request that it be consulted with further, should such an ADLS be incorporated into the finalised design.

36. **Transport Scotland** – Based on the review undertaken, Transport Scotland is satisfied with the submitted EIA Report and has no objection to the development in terms of environmental impacts on the trunk road network. Transport Scotland would, however, request two conditions be attached, relating to abnormal loads and traffic control measures, to any consent if granted.
37. **Joint Radio Company (JRC)** – In the case of this proposed wind energy development, JRC does not foresee any potential problems based on known interference scenarios and the data provided to it. Should any of the details of the wind farm change, it will be necessary to re-evaluate the proposal.
38. **BT Group** – Having studied this proposal with respect to EMC and related problems to BT point-to-point microwave radio links, the grid references provided for the proposed turbine locations should not cause interference to BT's current and presently planned radio network.
39. **South Ayrshire Council (SAC)** – Detailed response can be read in their committee report which formed part of the consultation response to the Scottish Government. In summary, the decision taken by SAC was to offer no objection to the proposed development subject to the agreement on conditions.
40. **Crown Estate Scotland** – Confirm that the assets of Crown Estate Scotland are not affected by this proposal and have no further comments to make.
41. **Scottish Dark Sky Observatory (SDSO)** – SDSO registers an objection to the application and will maintain this stance until more detailed information on required turbine lighting and site lighting can be made available. SDSO have concerns that any required visible or infrared turbine aviation warning lighting may interfere with night-time viewing and astrophotography activities. Similarly, concerns remain regarding both construction and operational phase site lighting may cause undue, unnecessary and detrimental light pollution and lightglow / skyglow. Please note, turbine and site lighting does not have to be visible from the SDSO site to be problematic – lightglow and skyglow bleeding into the sky can be just as detrimental.
42. **Crosshill, Straiton and Kirkmichael Community Council** – Do not object in this instance.
43. **Dalmellington Community Council** – fully support the Scienteuch Wind Farm Community benefit package and that the 9CC Group will take the lead authority on how East Ayrshire's portion of the community benefit will be spent and distributed.

Representations

44. A review of the Scottish Government's Energy Consents Unit website case file for this application has shown that 362 representations have been received from third parties, 320 in support of the application (though this includes the 9CC group) and 42 objecting. 9CC Group's comments (representing 9 community councils in East Ayrshire) are included in the number listed here and their comments summarised within this section:

45. The letters of objection raise issues relating to concerns over landscape and visual impacts, noting the scale of turbines would dominate the landscape and would also require visible aviation lighting, threatening the integrity of the Dark Sky Park designation leading to light flicker and sky glow; damaging effects on nearby settlements including Straiton, Patna and Waterside; Residential visual amenity impacts; Cultural heritage impacts on the Doon Valley extending into the Straiton conservation area; Risks of peatland damage and pollution events on watercourses; No need case given constrained operation of wind farms currently and economic costs to consumers through constraint payments; Proposed turbines would add to the industrialisation of the rural area; Concerns regarding noise impacts; Impacts on ecological interests including bats; Adverse impacts on the Merrick Wild Land Area; Concerns raised over cumulative impact, particularly on Galloway Tourist Route and B741 with increasing consents for wind farms, turbines would drastically alter the rural aspects of the area; Concerns regarding shadow flicker including triggering epileptic seizures, and concerns over the impacts on Craigengillan estate and the Galloway and Southern Ayrshire Biosphere.
46. The letters of support are almost entirely in the form of a standard letter with the same general reasons for support, including: renewable energy needed to tackle climate change; Wind power helps to achieve Scottish Government greenhouse gas reduction targets; Potential for inclusion of large scale battery energy storage on site; Economic benefits and community benefit funds equal to £5,000 per MW per year; Biodiversity benefits including native woodland planting and peatland restoration, and 9CC Group are supportive in principle for the community benefit package proposal for allocation to the 9CC geographical eligibility area.

Assessment against Development Plan

47. The application has been submitted to the Scottish Government under Section 36 of the Electricity Act 1989. Unlike a planning application, there is no requirement that the application be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Instead, the Development Plan is a material consideration, albeit an important one, amongst a number of material considerations, which require to be taken into account by the Scottish Ministers in the determination of the application.
48. For the purposes of the Council's assessment of the proposed development, to inform its response to the Scottish Government, it is considered that the Development Plan represents a logical document against which to base its primary assessment. Other material considerations pertinent to the application are considered following the assessment and overall conclusions are drawn thereafter.
49. With the formal adoption of National Planning Framework 4 (NPF4) by the Scottish Government on 13 February 2023, NPF4 now forms part of the Development Plan, alongside the Council's Minerals Local Development Plan (MLDP), which was adopted by the Council in January 2020, and the East Ayrshire Local Development Plan (EALDP), which was adopted by the Council on 3 April 2017. All relevant policies from these three documents are considered in detail below. Also worth noting is that with the adoption of NPF4, this now supersedes NPF3 and Scottish Planning Policy (SPP) both of which are now no longer relevant material considerations.

50. It is important to note that the assessment by the Planning Authority focuses on the significant environmental effects predicted to arise, resulting from the proposed development, as such effects are more likely to be determinative in nature in the assessment and conclusions. For the avoidance of doubt, a lack of significant effects does not mean there will be no effect at all, and non-significant effects are still relevant to the assessment of the proposed development.
51. The assessment by the Planning Authority primarily focuses on effects as they relate to East Ayrshire. Due to the location of the proposed development, across both East Ayrshire and South Ayrshire Councils, impacts will also affect that authority area. South Ayrshire Council has, however, also been consulted by the Scottish Government and has provided its own consultation response in respect of its interests to the Scottish Government.

National Planning Framework 4 (NPF4)

52. NPF4 is a long-term plan for Scotland and is Scotland's fourth National Planning Framework that looks forward to 2045 to guide spatial development, set out national planning policies, designate national developments and highlight regional spatial strategies.
53. NPF4 is split into three parts. Part 1 sets out the National Spatial Strategy for Scotland 2045, Part 2 sets out the National Planning Policies, and Part 3 comprises the annexes.
54. The Spatial Strategy in NPF4 highlights the need to reduce greenhouse gas emissions and adapt to the future impacts of climate change whilst also responding to the nature crisis. It further identifies Scotland's heritage, culture and environment as national assets which support the economy, identity, health and wellbeing of the nation. Though noting the significant steps taken towards decarbonising energy and land use, the Spatial Strategy recognises that choices need to be made regarding how to make sustainable use of the country's natural assets in a way to benefit communities. The Spatial Strategy is clear that we will need to make the right choices about where development should be located but also be clear about the type of infrastructure that will need to be built and the assets that should be protected for future generations. Rather than compromises or trade-offs between environmental, social and economic objectives, the Spatial Strategy seeks to provide an integrated strategy to bring cross-cutting priorities together to achieve sustainable development.
55. Eighteen national developments support the strategy and these will be a focus for delivery. The proposed development, as onshore electricity generation from a renewable source exceeding 50MW in capacity, would fall within the national development category of Strategic Renewable Electricity Generation and Transmission Infrastructure, which applies Scotland-wide. There is in principle support for national developments due to their importance in helping to deliver the Spatial Strategy. Nevertheless, any such developments require to be considered at the project level and decision makers take into account all relevant policies.
56. Part 2 of NPF4 sets out the policy framework against which developments will be assessed, as relevant. It is noted that local development plans (LDPs) are not required to replicate the policies within NPF4, though can add further detail and locally-specific policies should it be considered necessary, based on the area's individual characteristics. NPF4 confirms it is for the decision maker to decide what weight to attach to policies on a case by case basis, and where policies state that

development is supported, this is in principle, and it will be for the decision maker to take account of all other relevant policies. In this case, Scottish Ministers are the decision maker, and the Council is just a consultee in the process. There now follows the Planning Authority's consideration of the relevant NPF4 policies to inform the consultation response to the Scottish Government.

Policy 1: Tackling the climate and nature crises

57. *When considering all development proposals significant weight will be given to the global climate and nature crises.*
58. The proposed development would contribute to the generation of electricity from a renewable source, helping to decarbonise the energy sector, so in this regard would be considered to provide a positive contribution in addressing the global climate crisis. With regards to the nature crisis and loss of biodiversity, the proposed development would have an impact on ecology through damage to and loss of peatland and disturbance and/or displacement of wildlife, notably throughout the construction period of the proposed development.
59. NatureScot, the Scottish Government's advisors on such matters, have not objected to the proposed development in their consultation response to the Scottish Government. NatureScot were content that ecological interests could be protected through appropriate pre-construction checks and implementation of appropriate protection plans, informed by the checks. There is also a Habitat Management Plan proposed by the Applicant which will seek to restore some peatland areas. All of these matters can be secured by appropriate conditions if consent is granted. On balance, although there is some conflict with the policy with regards to the nature crisis as the proposed development will have an impact on habitats and wildlife, overall, subject to mitigation, the proposal could be considered to generally reflect the provisions of Policy 1.

Policy 2: Climate mitigation and adaptation

60. *a) Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible.*
- b) Development proposals will be sited and designed to adapt to current and future risks from climate change.*
61. The proposed development will result in the release of carbon emissions through its construction, and through loss of and damage to peatland on site, and felling of forestry to accommodate the proposed development. During the operational lifetime of the development, however, it would not be anticipated that it would result in any notable greenhouse gas emissions and the balance would tilt towards the development in terms of carbon emission savings over the lifetime of the development. Wind turbines are a mature technology now and their design is intended to withstand a whole range of weather conditions to ensure they continue to operate. BESS technology is not as mature although is also structurally smaller in scale than wind turbines and should be expected to face similar weather conditions as other built structures. Although difficult to predict exactly what sort of future risks might emerge from climate change, the site layout has sought to avoid any potential flood risk areas (other than where having to cross watercourses on site) and there are no known climate related hazards which could pose a threat to this development on this site. Given the above it is considered the proposal would generally reflect the provisions of Policy 2.

Policy 3: Biodiversity

62. a) *Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions where possible.*
- b) *Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:*
- (i) the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;*
 - (ii) where feasible, nature-based solutions have been integrated and made best use of;*
 - (iii) an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;*
 - (iv) significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and*
 - (v) local community benefits of the biodiversity and/or nature networks have been considered.*
- d) *Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration.*
63. The application site has the potential to accommodate a number of protected species including flora and fauna (including birds and fish) and habitats which support them. The Applicant has undertaken surveys to inform their assessment of such impacts with the findings set out in Chapters 7 and 8 (and to some extent, 9) of their EIA Report along with associated appendices and figures. The Applicant has identified a number of protected species either within or likely to be using the site at times or within the study area for their EIA Report.
64. Species Protection Plans would be required to detail all measures to mitigate for any impacts to protected species. These would require to be informed by updated checks on site no later than three months prior to commencement of development, to then inform the detailed mitigation measures which will require to be approved by the Planning Authority, if consent is granted by Scottish Ministers. A Fish Monitoring Plan

is proposed which will require to be approved by the Planning Authority in consultation with Marine Scotland Science and the Ayrshire Rivers Trust and the River Doon District Salmon Fisheries Board. This would secure mitigation for aquatic life and would work alongside a Water Quality Monitoring Plan and Pollution Prevention Plan to ensure any potential water quality impacts, and associated impacts on aquatic life, are mitigated.

- 65.** Mitigation such as those measures outlined above, is proposed alongside other more general construction period measures such as the employment of a full time Environmental Clerk of Works (ECoW) on site to monitor and advise in respect of ecological interests and implementation of a Construction Environmental Management Plan (CEMP). In general regarding impacts on species, the Council does not have expertise in such matters and so it would be expected that the appropriate agencies such as NatureScot, RSPB, Marine Scotland Science (MSS), and the relevant fishery boards/trusts be consulted by the Scottish Government and their advice and input will help Scottish Ministers in their determination of this application.
- 66.** The Applicant proposes a Habitat Management Plan (HMP), with two areas identified on site where improvements to bog habitats could be implemented. The HMP will also include a monitoring regime to ensure the effective implementation of the management measures and successful outcomes in terms of bog enhancement. The detailed HMP will require to be secured by condition. NatureScot welcomed the Applicant's commitment to providing a Habitat Management Plan in their consultation response to the Scottish Government. No indication of extent of area to be subject to habitat management has been detailed within the EIA Report so it is unclear just how much habitat management will take place. In terms of impacts on bats, NatureScot have advised that turbine blades should be feathered while idling to reduce their rotation speed, whilst a programme of post-construction monitoring should also take place to determine the efficiency of the mitigation measures to reduce impacts on bats, with provision for mitigation to be amended / improved where the monitoring finds that any mitigation employed at the time is not as effective as expected. NatureScot were also content with the proposals to undertake pre-construction updated ecological and ornithological surveys and for the findings of these to inform species and bird protection plans detailing all necessary mitigation to address any potential impacts on wildlife. Similarly, NatureScot were content with the WQFMP and pollution prevention measures to address impacts on aquatic life. All such matters can be secured by appropriate conditions if Scottish Ministers grant consent.
- 67.** Although the Applicant has not avoided impacts on biodiversity, they have minimised these through the siting and design of the proposed development infrastructure, and proposed mitigation would help to reduce residual impacts. Compensatory planting on site will also contribute to nature enhancements, albeit compensating for tree loss resulting from the proposed development, though the species composition should be better than that of the felled trees. Other impacts such as on Groundwater Dependent Terrestrial Ecosystems (GWDTEs), peatlands and forestry are discussed under separate policies, though overall, subject to securing various mitigation measures to address each specific aspect, it is considered that unacceptable impacts will not result from the proposed development on biodiversity.
- 68.** It is worth noting that this application was submitted to the Scottish Government on 12 July 2022, prior to the adoption of NPF4. The assessment by the Applicant was therefore undertaken in line with the policy framework applicable at that time. The requirements of Policy 3 of NPF4, namely that proposals restore and enhance biodiversity and nature networks such that they are in a demonstrably better state

than without intervention, go further than previous policy documents. In terms of the criteria set out in part (b) of Policy 3, criterion (i) is satisfied as the Applicant has undertaken relevant assessments to inform their EIA Report such that the characteristics of the existing site in respect of ecology and habitats are well understood. Criteria (ii) and (iii) are also satisfied as the Applicant has sought to avoid impacts through siting and design of the proposed wind farm, and mitigate remaining impacts through habitat enhancement and compensation.

69. Where the current application does not quite fully satisfy part (b) of Policy 3 in respect of criteria (iv) and (v). It is questionable whether the proposed mitigation, mainly the two areas of habitat management, at the moment would be considered to represent a 'significant biodiversity enhancement' nor that it includes nature networks and linking to or strengthening habitat connectivity within and beyond the development. It is also not clear the extent of any local community benefits of any biodiversity and/or nature networks. NatureScot notes that for national and EIA development, more ambitious measures are likely to be required in respect of biodiversity enhancement than for local developments, though specific guidance from the Scottish Government on Policy 3 for delivering biodiversity enhancements for larger scale developments is currently under preparation, with a draft published in November 2023 (Draft Planning Guidance: Biodiversity). The principles for local development is set out in existing NatureScot guidance, 'Developing with Nature' but the distinctiveness and scale of biodiversity damaged or lost and the time required to deliver biodiversity benefits, and the risks or uncertainty in achieving this, are some of the factors which determine the level of enhancement required.
70. Although the Applicant has gone some way to complying with Policy 3, there remains some doubt over whether sufficient biodiversity enhancement is proposed such that the proposed development could be considered to fully comply with Policy 3. As Scottish Ministers will be determining the application, it will be for them to consider the extent to which they believe the Applicant has enhanced biodiversity rather than just mitigated the impacts of the proposed development. The Planning Authority considers it likely that the principles of the proposed mitigation could be more fully developed further to deliver more meaningful, substantial enhancement of biodiversity on the site and Scottish Ministers may wish to secure this through planning conditions. It is therefore considered that the proposed development complies partly, though not fully, with the requirements of Policy 3, though it is likely that subject to more ambitious biodiversity enhancement which could be secured by conditions, if deemed necessary by Scottish Ministers, it would be possible for the requirements of Policy 3 to be satisfied in full. The Planning Authority would support and endorse any such conditions that required a more substantial package of enhancement measures to be implemented.

Policy 4: Natural Places

71. *a) Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.*
- b) Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary for their conservation management are required to be subject to an "appropriate assessment" of the implications for the conservation objectives.*

c) Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:

- (i) The objectives of designation and the overall integrity of the areas will not be compromised; or*
- (ii) Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.*

All Ramsar sites are also European sites and/or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.

d) Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:

- (i) Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or*
- (ii) Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.*

e) The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.

f) Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of an application.

- 72.** NatureScot advised in their consultation response to the Scottish Government that there will be no likelihood of any significant impacts on any national or international statutory natural heritage designations. There are no S.S.S.I.s in such proximity to the application site that they are likely to be adversely impacted by the proposed development. Direct impacts would not occur and any indirect impacts such as on ornithological interests which may commute to and use the more distant S.S.S.I.s have not warranted any concerns to be raised by NatureScot in their consultation response.
- 73.** There are a number of Local Nature Conservation Sites (LNCS) in the area, one of which (Wallace Moor/Keirs Hill) is located within the application site and will see a section of proposed access track formed across this LNCS towards the southern end. The Applicant's EIA Report did not consider this an important ecological feature and did not assess the site further. Given it is an area of blanket bog and wet modified bog habitat and to ensure the impacts of any proposed track formation across this site are minimised, the Planning Authority consider it appropriate that any track across this site be floating in nature so as not to affect any hydrological connectivity within the LNCS and to minimise impacts on that feature. Other LNCS are more distant or incorporate some S.S.S.I. designations. As such, similar conclusions regarding the S.S.S.I.s can be drawn for these other LNCS, there would be no direct impacts on these features and any indirect impacts regarding ornithological interests

have not been such that NatureScot, the Scottish Government's advisors on ecological matters, have raised any concerns regarding these in their consultation response.

- 74.** Over half of the site (that within East Ayrshire Council) falls within the Doon Valley Local Landscape Area (LLA)/Sensitive Landscape Area (SLA) which is a relatively broad river valley strongly contained by the uplands on either side. The key sensitivities of the Doon Valley reflect its importance as a scenic entrance into East Ayrshire, containing a range of landscape features including complex knolly hill patterns, several water bodies and the Craigenjillan Estate. The history of former coal mining on the eastern side of the valley makes the appropriate management of the remaining valley of significant importance.
- 75.** The majority of the proposed development, including five of the nine turbines and battery energy storage system would be located within, and have direct impacts on the LLA/SLA. Those turbines which are outside the LLA/SLA are located in such close proximity to the boundary that they would nevertheless be highly visible and experienced much as though they were in the LLA/SLA through indirect impacts. Landscape and visual impacts associated with the proposed development are discussed in more detail later in this report, though for the reasons detailed elsewhere, the proposed development is considered to have significant adverse impacts on the LLA/SLA where the development, most notably the turbines, would be highly visible when travelling through and within the Doon Valley and would also be seen from a number of areas within the Craigenjillan Garden and Designed Landscape.
- 76.** The Council's independent consultants, IFL, also consider there to be significant landscape effects to parts of the Doon Valley LLA/SLA north of Dalmellington and note that current practice in the assessment of effects on designated landscapes indicates that significant effects on any special qualities can be considered to affect the integrity of the whole designated area. With regards to the Craigenjillan GDL, IFL note that the proposed development would be visible from parts of the GDL, where the landscape is relatively open to the north around Bogton Loch and from high points such as Auchenroy Hill. IFL do not, however, consider that the proposed development would have a significantly adverse effect on the character of the GDL overall, rather just affecting some views from it.
- 77.** Part (d) of Policy 4 sets out two considerations to determine whether proposals will be supported. Clearly the proposed development will have significant adverse impacts on the integrity of the Doon Valley LLA/SLA and the qualities for which it has been designated, so gains no support from the first consideration. The second consideration does allow support to be achieved if such significant adverse impacts can be outweighed by social, environmental or economic benefits. In this case the proposed development's contribution to renewable energy generation targets, when balanced against the extent of impacts on the LLA/SLA, are considered to be sufficiently significant that would enable the development to draw overall policy support.
- 78.** In summary, the proposed development will result in impacts on some of the designations mentioned in Policy 4. Subject to compliance with conditions to deliver appropriate safeguards, it is considered the proposal generally reflects the provisions of Policy 4.

Policy 5: Soils

79. a) *Development proposals will only be supported if they are designed and constructed:*
- (i) *In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and*
 - (ii) *In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing.*
- c) *Development proposals on peatland, carbon-rich soils and priority peatland habitat will only be supported for:*
- (ii) *The generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reductions targets;*
 - (v) *Restoration of peatland habitats.*
- d) *Where development on peatland, carbon-rich soils or priority peatland habitat is proposed, a detailed site specific assessment will be required to identify:*
- (i) *the baseline depth, habitat condition, quality and stability of carbon rich soils;*
 - (ii) *the likely effects of the development on peatland, including on soil disturbance; and*
 - (iii) *the likely net effects of the development on climate emissions and loss of carbon.*

This assessment should inform careful project design and ensure, in accordance with relevant guidance and the mitigation hierarchy, that adverse impacts are first avoided and then minimised through best practice. A peat management plan will be required to demonstrate that this approach has been followed, alongside other appropriate plans required for restoring and/or enhancing the site into a functioning peatland system capable of achieving carbon sequestration.

80. The proposed development has not been able to avoid development on soils as given the nature of sites for wind farms, these tend to be on rural land/hillsides with no previous development. So in terms of the mitigation hierarchy, avoidance has not been possible. The design of the wind farm has sought to minimise the amount of soils and peat (which is found throughout the application site) required to be excavated to accommodate the wind farm. In terms of mitigation, forestry felling will result in brash material being generated, which will be used to help vehicles track over the site, reducing erosion and compaction of soils. A soil and peat management plan will be secured by condition to ensure the Applicant details all necessary measures to reduce disturbance to, and mitigate impacts on, soils. Generally it is considered the Applicant has sought to minimise impacts on soils as far as reasonably practical and mitigation can be secured to ensure soils are handled and re-used appropriately on site.
81. As noted above, peatland is located throughout the application site. There is an area of Class 1 nationally important peatland towards the eastern area of the application site just to the west of High Keirs. The proposed development has generally avoided this important peatland however a section of access track is proposed to run across this feature. The Applicant proposes to use a floating track construction technique for this section of track over the Class 1 peatland (and this will also require to be done

on any areas of deep peat greater than 1m in depth) and NatureScot advised in their consultation response to the Scottish Government that this would be an appropriate form of mitigation. In addition a Peat Management Plan and Habitat Management Plan are proposed and these in combination should result in appropriate handling and minimisation / mitigation of impacts and loss of peatland on site as a result of the proposed development. The details of the Habitat Management Plan can be secured by condition and if sufficiently generous (particularly given impacts on nationally important peatland and the Scottish Government's commitment to improving peatland nationally, and given the requirements to deliver substantial biodiversity improvements), should mitigate for the loss and damage to peatland across the application site.

82. The Applicant undertook a carbon balance assessment which is reported within their EIA Report in Chapter 14. Their assessment indicates the expected carbon payback period would be 2.5 years (with a minimum payback period of 1.5 years and a maximum payback period of 4.4 years). Based on the carbon balance assessment there is expected to be a saving of 3,117,510 tonnes of CO₂ over the lifetime of the proposed development compared to a fossil fuel mix. Therefore, despite the impacts on peatland which have not been avoided, the carbon balance would be strongly weighted in favour of the proposed development. Taking all of the above into consideration, it is considered the proposed development would generally reflect the provisions of Policy 5.

Policy 6: Forestry, woodland and trees

83. a) *Development proposals that enhance, expand and improve woodland and tree cover will be supported.*

b) *Development proposals will not be supported where they will result in:*

- (i) Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;*
- (ii) Adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;*
- (iii) Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy;*
- (iv) Conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.*

c) Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered.

d) Development proposals on sites which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design.

84. There are areas of ancient woodland within 1km of the site, but only Kiers Glen ancient woodland within the application site. This woodland is approximately 60m from sections of proposed access track and therefore could face indirect impacts during construction, such as from dust or pollution events. Subject to compliance with a Pollution Prevention Plan and Dust Management Plan, both of which would likely form part of a Construction Environmental Management Plan secured by conditions if Scottish Ministers grant consent, then impacts on ancient woodland should not be likely.
85. The proposed development would result in a net loss of 57.1ha of woodland on site and the Applicant has confirmed this will be subject to compensatory planting and it will be expected that this compensatory planting takes place within the application site. An appropriate condition can ensure details of the location, design and species composition of any compensatory planting is approved by the Planning Authority before being implemented on site. Forest waste would be dealt with through a Forestry Waste Management Plan which could be part of a CEMP and these matters can be secured by appropriate condition(s) if Scottish Ministers grant consent. The Planning Authority is not aware of any consultation response from Scottish Forestry to the Scottish Government. In summary, given the above and subject to appropriate conditions, the proposed development would generally reflect the provisions of Policy 6.

Policy 7: Historic assets and places

86. *a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.*

Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

d) Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the:

- (i) architectural and historic character of the area;*
- (ii) existing density, built form and layout; and*
- (iii) context and siting, quality of design and suitable materials.*

h) Development proposals affecting scheduled monuments will only be supported where:

- (i) direct impacts on the scheduled monument are avoided;*
- (ii) significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or*
- (iii) exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.*

i) Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.

o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures.

- 87.** In terms of the historic environment, developments can have direct impacts, such as physical impacts on such features, or indirect impacts such as on the setting or character of a historic asset. Considering direct impacts first, WoSAS advised in their consultation response that the large area of ground that would be disturbed by the proposed development is likely to unearth unrecorded archaeological remains and as such direct archaeological impacts are possible, and conditions would be required to secure appropriate mitigation if consent is granted. WoSAS suggest a Written Scheme of Investigation will require to be submitted for the approval of the Planning Authority, with the agreement of WoSAS, with the suite of mitigation required being detailed within the scheme of investigation. This would then require to be implemented to ensure any archaeological remains encountered during construction are appropriately recorded and dealt with. This can be secured by an appropriate planning condition if Scottish Ministers grant consent.
- 88.** The Applicant's EIA Report identified a small enclosure within the site near to the proposed crane hardstanding for turbine T9, which is possibly post-medieval or older in date. The Applicant proposes to fence this area off during construction and detail any further mitigation necessary through agreement with WoSAS. Suitable conditions would ensure such mitigation is secured if Scottish Ministers grant consent.
- 89.** There is a Scheduled Monument located immediately adjacent to the application site on its eastern boundary. This is SM7544 (Waterside Bing, iron slag bing, Dalmellington Ironworks). There are also others located to the north and east of this associated with the ironworks and miners' village, including SM7863 (Waterside, miners' villages & mineral railways N of) and SM4345 (Waterside, Dalmellington Ironworks). All such heritage assets are located out with the application site so would face indirect impacts on their setting rather than direct impacts on the assets themselves. The Reporter for the previous Keirs Hill wind farm proposal noted that scheme would have significant impacts on the historic environment and visitor experience, especially of the scheduled monuments, listed buildings and conservation area at the Waterside Ironworks. Although the number of turbines currently proposed has been reduced and the turbines pulled back to increase the distance from the scheduled monuments compared to the previous wind farm proposal, the scale of turbines has now increased from 149.9m to 180m and 200m.

Due to the scale and location of the turbines, it is considered that the resultant impacts remain significantly adverse due to the visual intrusion of the turbines generally and that the setting of the monuments will be altered, to some extent, although the overall integrity of the Monuments, as features closely interlinked with the past mining activity on the site and immediate surroundings, are not compromised. Nevertheless, Scheduled Monuments fall within HES's remit and they have raised no objections to the proposed development in their consultation response to the Scottish Government as the proposed development does not raise issues of national interest. This does not suggest there are no impacts but simply that those impacts are not nationally important, or affecting heritage assets of national importance.

- 90.** In terms of other indirect, setting impacts there are a number of other features out with the application site which have the potential for their character or setting to be impacted by the proposed development. There are a number of listed buildings, the closest of these located in Waterside to the east of the application site, with other more distant ones in Dalmellington to the south-east and Patna to the north-east. The closest being approximately 1.9km from the nearest turbine (the turbines being the infrastructure most prominent and likely to have an impact on the setting of any such listed structures). No listed buildings are considered to experience such adverse impacts on their setting as a result of the proposed development that they would be considered to be unacceptably impacted. A similar conclusion is reached regarding conservation areas, with Waterside Conservation Area being the closest to the proposed development. Impacts on its appearance will occur due to the location of the proposed turbines and their prominent position on the containing skyline and readily visible from Waterside, though such setting impacts are not considered to be unacceptably adverse to the extent that its overall character and appearance, which is primarily focused on the immediate surrounds of the conservation area, would be undermined nor would they be for other more distant conservation areas in the wider area. The proposed development would certainly not enhance or completely preserve the setting of the closest conservation areas due to the visual intrusion of the turbines, noting however that Ministers, as decision makers, will have to take full account for the terms of Sections 59 and 64 (particularly the special duty to protect the setting of listed buildings and conservation areas) set out within The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- 91.** Considering Craigengillan Garden and Designed Landscape (GDL), this is a nationally important, inventoried GDL located approximately 1.4km south-east of the application site (approximately 2.7km south-east of the nearest turbine, T8). HES's consultation response to the Scottish Government confirms their remit includes gardens and designed landscapes and have raised no objections regarding the proposed development in their consultation response to the Scottish Government.
- 92.** The proposed turbines, given their location and scale, will be notable features in views from the Craigengillan estate and will be prominent from certain locations, notably from elevated areas, such as Auchenroy Hill, or more northerly locations within the estate. It is unlikely the proposed development could be argued as having a significant adverse impact on the estate as a whole, however, but more on certain views from it. Cumulatively the impacts on the estate will increase given the current baseline of Dersalloch wind farm in views from the estate, with the apparent scale differential between those existing turbines and the currently proposed Scienteuch ones only serving to increase the sense of visual impacts and 'clutter' from the mismatched scales (emphasising the scale of the Scienteuch ones further – this scale differential previously being noted as an impact resulting from the 149.9m high turbines proposed under that original scheme), with other application stage wind farm

schemes also appearing in views from the estate (notably Knockkippen). This will represent an increasing visual impact on the setting of the estate though much like the standalone impacts, these will impact on certain parts of the estate and certain views from it, rather than significantly impacting on the estate as a whole.

93. In summary, the Applicant's EIA Report suggests effects on heritage assets throughout the area range from none to minor significance. The Planning Authority considers this downplays the effects on such assets and there will be some apparent significant adverse visual impacts on a number of heritage assets, particularly the Scheduled Monuments (associated with the ironworks). With regards to the requirements of Policy 7, development proposals affecting conservation areas will only be supported where the character and appearance of the conservation areas and their settings are preserved or enhanced. The setting of the conservation area within the Doon Valley, contained by the hills on either side of the valley and the cultural history of the village with mining having been the focus of life there, the resulting setting impacts of the prominent turbines on the containing hillside will draw views and be prominent features in views, somewhat detracting from the past buildings and works associated with the mining history of the village. These will be prominent on the containing landform having a significant effect on the northern part of the Doon Valley generally, affecting the overall appearance of the conservation area, and not particularly preserving or enhancing the character and appearance of the conservation area's setting.
94. Similarly, with regards to development proposals affecting scheduled monuments, these will only be supported where significant impacts on the integrity of the setting of such monuments are avoided. Much as above, the scheduled monuments relate to the ironworks and mining in this area which is the key feature, and immediate setting of the Monuments. The turbines are located on the opposite valley side but will be visually prominent in the general landscape where they will have an impact on the appearance of the monuments, albeit not undermining the integrity of the setting, noting that HES raise no objection to such impacts. It is considered that the development cannot demonstrate complete compliance with the requirements of this policy due to the general visual intrusion of the turbines on the appearance of the Waterside Conservation Area and scheduled monuments, however the overall integrity of the setting of these features is not unacceptably affected.

Policy 11: Energy

95. *a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These included:*
- (i) wind farms including repowering, extending, expanding and extending the life of existing wind farms;*
 - (iii) energy storage, such as battery storage and pumped storage hydro;*
 - (vii) proposals including co-location of these technologies.*
- c) Development proposals will only be supported where they maximise net economic impact, including local community and socio-economic benefits such as employment, associated business and supply chain opportunities.*
- d) Development proposals that impact on international or national designations will be addressed in relation to Policy 4.*

96. Considering the sections of Policy 11, above, initially, there is general support in principle for wind farms expressed in the opening of Policy 11 which is relevant in this case given it is a Section 36 application for a wind farm, which includes as part of the wider development proposals, battery energy storage. The Applicant has considered socio-economic impacts within Chapter 13 of the EIA Report. Figures and assessments of job creation and expenditure are based on averaging from studies from previous wind farm developments and applying these assumptions based on the generating capacity of a proposed wind farm scheme, so cannot be relied upon as specific accurate figures or commitments, but estimates.
97. The Applicant estimates the proposed development will support up to 185 jobs during the temporary construction phase at the Scottish level (61 at the local level) over a stated period lasting up to 24 months (although the Applicant has indicated in the EIA Report the construction period is expected to last 14 months). During the operational phase the Applicant estimates this could support approximately 15 jobs at the Scottish level (11 at the local level), which would mainly be through local spend by maintenance contractors. The Applicant also estimates spend on accommodation and local business (based on previous study estimates of £7,500 being spent for every MW constructed) of £405,000 based on the 54MW wind farm.
98. The Applicant proposes the creation of new and upgraded walking trails (Keirs Glen Trail) for pedestrian access though this forms part of the proposed development rather than a voluntary community benefit. The Applicant is also proposing a Community Benefit Fund though no detail have been provided regarding that matter, other than the fund is expected to be in line with the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments. That document notes the Scottish Government's continued promotion of community benefits to the value equivalent to £5,000 per MW per annum index linked for the operational lifetime of the development. It remains unclear at this stage what level of community benefit will be delivered, though such a community benefit package is not a material planning consideration as clarified within the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Development.
99. Whether the development could be described as maximising net economic impact, including for local communities, is difficult to judge as no guidance is yet available from the Scottish Government to provide a clear metric of how to judge this. Ultimately the net economic benefits would be dependent upon the success or otherwise of any initiatives and investments made by the Applicant, some detail of which they have set out in submissions, though the Planning Authority considers it likely that the proposed development will provide a net economic benefit to the local and regional area based on the information available.
100. In addition to the above provisions of Policy 11, part (e) of that policy is also relevant.
101. *e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:*
- i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker.*

102. The nearest communities and residential properties are considered to represent those most likely to face potential significant impacts. With increasing distance from the proposed development, such impacts are likely to reduce due to the perceived reduction in scale of the turbines due to separation distances and possible screening from intervening topography and structures. Similarly, noise impacts will likely be experienced at their greatest level at closer proximities to the proposed infrastructure, notably the turbines and BESS, with impacts generally decreasing the further away a receptor is to the noise generating source. Impacts on communities and dwellings associated with those matters listed in the heading on the criterion will be discussed below.

Visual amenity:

103. A number of properties and property groupings were assessed as part of the Applicant's Residential Visual Amenity Assessment (RVAA) with a study area of 2km (though properties between 2 – 2.5km were scoped into the assessment where they had open views towards the proposed development). All properties / property groupings assessed within East Ayrshire are located generally to the north and north-east of the application site, including from Patna and Waterside. Properties would experience varying degrees of visual impact as a result of the proposed wind turbines. Some properties would experience impacts limited to only a certain number of turbines, or parts of turbines including hubs and some blades, whilst other properties would experience views of all turbines and sometimes viewing much of the structures themselves with limited screening. Properties would also experience night time visual impacts from the visible aviation lighting required on account of the height of the proposed turbines. It is possible to reduce the required lighting through site layout so that not all turbines require hub lighting (at the time of writing this appears to reduce the need for one turbine to be lit, but the remaining 8 would be lit). Further lighting intensity reduction and angle shielding (common mitigation features of turbine lighting units now) would provide a degree of mitigation of lighting impacts. The Applicant proposes the use of aviation activated lighting (which only operates when aircraft are flying nearby) and would, in combination with the intensity reduction and angle shielding, certainly be a welcome measure to ensure that visible lighting is only on as and when required and off for the remainder of the time.

104. In terms of the residential visual amenity impacts there will be significant adverse impacts resulting from these, including through the impacts extending into the hours of darkness with the visible aviation lighting over and above the daytime impacts. Nevertheless, no property or property grouping is expected to experience impacts of such a magnitude that they would render the property an unattractive place to live. High Keirs is the closest property in East Ayrshire to the proposed turbines (1.2km north-east of the nearest turbine T9) and under the Keirs Hill scheme, was adjudged to receive overbearing type effects. The current development design shows that 3, possibly 4, turbine hubs would be visible with a further two turbines visible at blade height. The turbines would be viewed above the containing skyline to the west / south-west of the property. Despite the effect of views of the turbines at this proximity, and the night time impacts associated with the visible aviation lighting, this property, as well as others in East Ayrshire considered in the residential visual amenity assessment, are likely to experience significant visual impacts, but are not considered to experience such impacts as would be described as exceeding the threshold of residential visual amenity. The BESS development is not of a scale and nature likely to result in any notable impacts on residential visual amenity.

Shadow Flicker:

- 105.** In terms of shadow flicker, this is generally considered through Scottish Government guidance of May 2014 as having the potential to impact properties within a distance of ten rotor diameters of any turbine. In this case all proposed turbines are noted as having an indicative rotor diameter of 150m, so shadow flicker may impact properties within 1.5km from each turbine. The Planning Authority has experience of a case where shadow flicker has occurred beyond ten rotor diameters' distance of the turbine in that case, and note the Scottish Government guidance is just that, a guide, and does not state impacts cannot occur beyond ten rotor diameters' distance. The Applicant's shadow flicker assessment included properties within a study area of 1.5km. Shadow flicker is also only possible at up to 130° either side of north.
- 106.** The Applicant's assessment identified 8 occupied residential properties and 74 which are consented but as yet unbuilt as part of the Carskeoch Caravan Park residential consent. Unlike standard practice from shadow flicker assessments, the Applicant's assessment is not detailed and does not set out the number of hours per year that any of the identified properties are likely to experience shadow flicker. It is therefore not possible to quantify the level of effect, though the EIA Report claims the proposed development would not cause a significant effect without quantifying or evidencing this to be the case. As there is no level of shadow flicker amount classed as acceptable in this country, no shadow flicker impacts would be acceptable. It is possible to eliminate shadow flicker impacts and this is through shutdown of the turbine(s) responsible for causing the shadow flicker on the dates and times when it is likely to create an effect. Any other form of mitigation which would effectively block out light from a receptor's property is not reasonable.
- 107.** An appropriate condition, similar to many wind farm consents issued by the Council and the Scottish Ministers, requiring that dates and times when shadow flicker is likely be used to program shutdowns of the turbine(s) would be appropriate. In this case, given the lack of assessment by the Applicant in their EIA Report, it will be necessary for details of all dates and times when shadow flicker could be caused to be identified and subsequently the confirmed shutdown of relevant turbines be detailed in a protocol which will then require to be implemented should consent be granted. Thereafter any further instances of shadow flicker would require the shutdown dates and times to be adjusted to account for these additional instances and the corresponding turbine(s) shutdown on those dates and times. Although not detailed by the Applicant at this stage, as effective mitigation is possible through the shutdown of relevant turbines, then subject to all shadow flicker being mitigated through the shutdown of turbines responsible then no amenity impacts will result from shadow flicker.

Noise:

- 108.** With regards to potential noise impacts, this can come from a number of sources, initially construction noise, then during the operational lifetime of the proposed development noise would come from the wind turbines, the substation and the BESS. In terms of construction noise this can be conditioned to operate in accordance with good practice measures outlined in British Standard BS 5228. Furthermore there will be restrictions on the hours of construction on site so that no evening works and only limited Saturday morning works are permitted which will reduce the potential for impacts. Properties around the proposed site access from the A713 such as Keirs, have been assessed as possibly exceeding the 65dB limit set out in BS 5228 though this is expected to be for a relatively short duration of days or weeks associated with the site access formation, bridge construction and track upgrading/formation. Good

practice measures such as taking account of noise in the selection of plant, making sure stationary vehicles are sited further from properties, and maintaining plant in a good working order can help reduce impacts. Notwithstanding the general timing restrictions and other good practice measures, residents will experience construction noise impacts, however these will be limited to weekday day time and would gradually reduce as construction works extend deeper into the site, further from the properties, thereby reducing impacts.

- 109.** In terms of noise from the proposed development, the Council's noise consultant, ACCON, has reviewed the relevant information from within the EIA Report and has made a number of observations. ACCON is satisfied that the methodologies used in the Applicant's assessment of noise represent good practice and are in line with ETSU-R-97 and the OIA GPG for wind turbines. ACCON consider noise limits as proposed in the Applicant's proposed noise condition, based on the proposed wind farm operating in isolation, are appropriate and can be secured by appropriate conditions. ACCON notes the conclusions from the Applicant's noise assessment of the proposed BESS and that the predicted noise levels at the nearest properties should be no higher than $20\text{dB}_{\text{LAeq,T}}$ and this is in line with ACCON's expectations. A condition could be attached to ensure noise from the BESS did not exceed acceptable levels at nearby properties.
- 110.** Cumulative noise was assessed by the Applicant which included only the proposed development and the existing operational Dersalloch wind farm. ACCON recommended that a condition be attached to any consent, if granted by Scottish Ministers, requiring the submission of a protocol to detail the sequence of noise measurements and actions required to investigate any noise complaint in order to identify which wind farm is potentially in breach of their limits. This would be required prior to commencement of development. ACCON advised in their consultation response that a condition to address amplitude modulation should be attached to any consent. Whilst the Applicant's noise assessment considers no formal method for dealing with this has been adopted by either the UK or Scottish Governments, amplitude modulation has been factored into the noise condition for both North Kyle and Greenburn wind farms, which were consented by Scottish Ministers on 22 March and 21 April 2023 respectively, so a similar approach should be adopted in this case. ACCON concluded that subject to the adoption of appropriate operational noise limits there would be no over-riding reason for refusal in respect of noise.
- 111.** The Planning Authority considers that suitable conditions can be secured, should Scottish Ministers grant consent, that noise matters can be suitably controlled. It is worth noting the proximity of the proposed Knockkippen wind farm on the opposite side of the Doon Valley from the proposed Scienteuch wind farm and that cumulative noise impacts will be an important consideration. Scottish Ministers may wish to review this matter if they intend to grant consent for either or both of these applications, though the Planning Authority notes both remain as application stage wind farms with no guarantee either will ultimately be consented by Scottish Ministers.
- 112.** Blasting from borrow pits can be appropriately controlled by conditions to ensure this can only take place during certain times of the day and measures are implemented to reduce air overpressure. Other amenity impacts such as from construction traffic noise and dust would be capable of being controlled through a Construction Traffic Management Plan (CTMP), a CEMP, and a Dust Management Plan which will mitigate these impacts, bearing in mind they will only take place during the relatively short duration of construction works, with no discernible impacts beyond this throughout the 50-year operational lifetime of the wind farm.

113. In summary, no communities/settlements or individual properties are expected to face unacceptable impacts as a result of the proposed development, subject to appropriate mitigation being secured by conditions should Scottish Ministers grant consent.

ii. significant landscape and visual impacts, recognising that such impacts are to be expected from some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;

114. There are a number of landscape and visual impacts, including night time/low light impacts associated with this proposal given the scale of turbines proposed and associated development infrastructure. Each of these will be considered below, starting first with landscape impacts.

Landscape impacts:-

115. The application site is located within two Landscape Character Types (LCTs), LCT 17b Foothills with Forest west of the Doon Valley, and LCT 10 Upland River Valley, as defined by the East Ayrshire Landscape Wind Capacity Study (EALWCS). All infrastructure with the exception of a temporary construction compound, water crossing and new/upgraded access tracks located around the site access off the A713, will be located within LCT 17b so the primary focus of the assessment will be on this LCT, at least in terms of direct impacts.

116. Considering LCT 17b initially, this landscape forms a fairly narrow band of low lying hills on the west side of the Doon Valley and has a simple land cover of heather moorland and extensive coniferous plantations. This is a sparsely settled landscape. Given this landscape is where almost all infrastructure is proposed (insofar as that located within East Ayrshire Council is concerned) then significant direct landscape impacts are unavoidable. The EALWCS, taking into account the characteristics of the landscape and effects of other wind farm developments which have an influence on the landscape, has concluded that this landscape has a high sensitivity to very large typology turbines (turbines >130m in height).

117. The EALWCS provides the following guidance (on page 88) in respect of large and very large typology turbines within LCT 17b, *“No scope has been identified for the very large an large typologies (turbines >70m) as additional new wind farm development.”*

118. The proposed turbines (comprising 180m and 200m high turbines) would clearly have a significant impact given the landscape has been assessed as having no scope for turbines of greater than 70m in height. The Council’s consultants, IFL, broadly agree with the Applicant’s EIA assessment that significant effects to landscape character within East Ayrshire would be restricted to parts of the LCT 17b and LCT 10, however IFL also considered that the key sensitivities of the Doon Valley Sensitive Landscape Area (SLA) (soon to be Local Landscape Area – LLA) would also be adversely affected, resulting in significant adverse impacts on that designation itself. The Planning Authority would agree with the findings of IFL that there would be significant adverse landscape effects within LCT 17b (and also parts of LCT 10).

- 119.** The introduction of visible aviation lighting due to the scale of the proposed turbines would extend landscape character impacts into the hours of darkness. Bright red, flickering (due to blade passes) lights in the sky above an otherwise dark containing landform of LCT 17b would reduce the sense of this being a rural, sparsely settled landscape at night with little human influence perceptible.
- 120.** Considering LCT 10 Upland River Valley (Doon Valley), this is a relatively broad valley which is contained by the adjacent uplands and has a number of settlements in it including Patna, and Dalmellington as well as the A713 road. The EALWCS notes that this landscape is strongly contained by LCTs 17a (on the east) and 17b (on the west). There would be no direct significant adverse impacts on this LCT given the small scale, relatively limited nature of infrastructure proposed within it, however indirect impacts would be significant. The hill slopes of LCT 17b form the containing skyline to the Doon Valley and the scale and number of turbines proposed means these would be highly visible throughout the area, though predominantly notable in the northern parts of the Doon Valley around Patna and Waterside, and would affect some of the key sensitivities of the Doon Valley SLA/LLA through impacts on the setting of and visual amenity of settlements, the A713 Galloway Tourist Route and Craigengillan GDL, all affecting the impression of entering East Ayrshire from the west. Consequently the proposed development would have a significant adverse impact on LCT 10.
- 121.** The proposed development would result in direct significant landscape impacts on the host landscape (LCT 17b) through the siting of four 180m high turbines and one 200m high turbine, with indirect impacts experienced by the remaining turbines proposed into South Ayrshire Council, alongside indirect setting impacts on LCT 10 and the special qualities of the Sensitive Landscape Area / Local Landscape Area. IFL considered the key sensitivities of the SLA/LLA would be adversely affected and that these effects should therefore be considered significant to the integrity of the whole designation. The Planning Authority's conclusions regarding landscape effects are summarised at the end of this section after visual impacts are discussed.

Visual impacts:-

- 122.** Visual impacts from wind farms are generally unavoidable given the scale and nature of such developments, and in this case, the proposed Scienteuch turbines are no exception, with turbines of 180m (4 turbines) and 200m (5 turbines) in height proposed. The Applicant's EIA Report in Chapter 5 including associated appendices and figures/visualisations assesses the landscape and visual impacts associated with the proposed development, considering a set of representative viewpoints as part of this process. The selected viewpoints were agreed by the Planning Authority during the scoping stage.
- 123.** The Zone of Theoretical Visibility (ZTV) shown on Figure 5.1.2a of Volume 2b of the EIA Report shows relatively widespread visibility of the proposed development out to 10km, particularly so out to 5km. Beyond 10km visibility becomes more scattered and generally more confined to the southerly, westerly and northerly directions.
- 124.** Visual impacts will be experienced to varying degrees, with the magnitude of these often depending on factors such as the extent of visibility of turbines across the field of view, any screening of turbines and separation distances. Viewpoints within East Ayrshire are within 5km with the exception of VP 11: Dalmellington at approximately 5.6km from the nearest turbine.

- 125.** Some of the most significant adverse impacts will be experienced from locations along northern sections of the Doon Valley at the settlements of Waterside and Patna where the turbines would appear as significant features above the containing landform, where scale reference features such as woodlands and buildings are seen in combination with the proposed turbines in close relation in the view which highlights the scale differential between these human scale features and the very large scale of turbines proposed. Viewpoints 2 and 3 (from Waterside) and 4 (from Patna) are all considered to face significant adverse visual impacts, with IFL noting the fact that the turbines would be highly prominent features, with the trees and houses emphasising the larger scale of the turbines. The significant adverse visual impacts would be exacerbated with impacts extending into the hours of darkness with the requirement for visible aviation lighting introducing clearly visible red lights across the western containing landscape skyline which is otherwise predominantly dark due to the sparsely settled nature of the landscape. The lights would flicker (as blades pass in front of the lighting unit) and also pulse (as the blades pass behind the light, causing the light to reflect on the back of the blades as they pass) which would further draw viewers' attention to the lighting, highlighting the impact.
- 126.** Some of the clearest visual impacts would be experienced from VP6: Lethanhill on the outskirts of Patna, where the siting and design of the proposed wind farm clearly brings turbines far closer to the settled Doon Valley compared to the current operational Dersalloch wind farm in neighbouring South Ayrshire and other more distant operational and consented/proposed wind farm schemes. The clear scale differential between Dersalloch and the proposed Scienteuch turbines is evident which further draws attention to the large scale of these turbines.
- 127.** There is some mitigation proposed for the visible aviation safety lighting as noted in Technical Appendix 5.5 of the EIA Report. This involves a number of aspects, including potential to reduce the number of turbines requiring to be lit due to the design and layout of the wind farm. In this case it is understood that 8 of the 9 turbines would require visible lights at their hubs through the design and layout. Further mitigation involves intensity reduction which can be utilised in good visibility (when visibility is clear up to 5km) whereby the lighting can be reduced to 10% of its normal level. This would mean the required 2000 candela lighting could be reduced to 200 candela when weather conditions are clear. There is also the option of using lighting units to provide shielding of lighting relative to the horizontal plane which has been proposed on a number of wind farms over the last few years, becoming standard mitigation for visible aviation lighting. This reduces the intensity of the lighting with increasing angle of view away from the horizontal plane. The Applicant also seeks to use aviation activated lighting which would mean lighting was only on as and when required based on the detection of aircraft in the vicinity of the wind farm. Though this form of mitigation has not yet been approved by the Civil Aviation Authority.
- 128.** The Applicant has provided a limited number of night-time viewpoints to consider the effects of aviation lighting, though these have been produced to reflect the proposed intensity reduction and angle shielding mitigation so do not represent a worst-case scenario of 2000 candela lighting. Photomontages from VP4: Patna are provided and show lighting intensities at 20 candela and 200 candela. Neither of which represents the 2000 candela intensity which could be experienced when visibility beyond 5km is not possible (i.e. conditions are not clear). Even at the 200 candela shown, the lighting is clearly noticeable against the dark landscape and skyline. It is understood this would represent the angle reduction intensity already included, so 200 candela is the maximum intensity based on angle of view from this viewpoint when views are not clear, with 20 candela being possible where visibility is good. Clearly depending

on the position of receptors this will have a bearing on the intensity experienced though the aviation lighting will be a notable feature in an otherwise dark landscape and will be clearly visible throughout the Doon Valley.

- 129.** The Applicant sought, through this proposed development, to address the reasons for refusal of the previous Keirs Hill wind farm application which was refused for some of the following key landscape reasons:- the wider setting of the site is sensitive due to its location between the Doon and Girvan Valleys and close proximity to hills south of the B741 which offer fine views to the north; the plateau on which the site sits is of relatively low elevation compared with the valleys and the turbines would be out of scale and have an adverse landscape impact; the turbine heights and location means they would have an unacceptable impact on a number of properties in the Doon Valley, especially at Waterside and Keirs Hill Cottage, and there would be an adverse cumulative impact with Dersalloch wind farm.
- 130.** IFL concluded that due to the location and scale of the turbines proposed and the significant adverse effects assessed by both the Applicant and IFL themselves, the key landscape reasons for refusal of the Keirs Hill wind farm application have not been fundamentally addressed by the current Scienteuch proposals. It appears that although the number of proposed turbines has been reduced and pulled further back from the edge of the valley, the scale of turbines has increased and result in some significant adverse landscape and visual impacts for which no further mitigation is possible.
- 131.** The Planning Authority through its assessment identified that the four eastern-most turbines (T5, T6, T7 and T9) were routinely the most prominent when considering the viewpoints and resultant landscape and visual impacts on East Ayrshire. As a result the Applicant was asked to consider reducing these in scale from the currently proposed 180m in height to address the concerns of the Planning Authority. The Applicant did not consider any reduction in turbine height was necessary and concluded the resultant impacts would still be significant regardless of any potential scale reduction. This is a result of the nature of environmental impact assessment where it is not possible for any distinction to be made between adverse significant impacts and impacts which could be described as 'more significant'. Significant is the maximum descriptor, but clearly there are significant adverse impacts which can be acceptable and other significant impacts which are sufficiently adverse that applications for EIA development are refused, despite in both scenarios the impacts are assessed as being significant. The Applicant claimed any reduction in scale of these four turbines would risk the financial viability of the proposed development, though notably did not provide any evidence to substantiate this claim to demonstrate the difference between the viability of the development as currently proposed or one where these four turbines are reduced in scale.
- 132.** The BESS component of the proposed development (if the Applicant proceeds to develop that element) would have a very limited landscape and visual impact, certainly in comparison to the very large scale turbines proposed, and would not be considered to result in significant adverse landscape or visual impacts.
- 133.** In summary, the proposed development will result in significant adverse landscape and visual impacts in this area, though these impacts are most notable in the northern sections of the Doon Valley and associated settlements, primarily in the region of 2-3km. The proposed turbines would appear as very prominent features on the western containing skyline, seen readily alongside scale comparators. Visual and landscape impacts would not only be experienced throughout the daytime but also at night / low light periods during to the requirement for visible aviation lighting, though

lighting mitigation, provided the full suite of mitigation options are implemented, should be reasonably effective in reducing lighting impacts. The Council notes the comments of IFL and although the Applicant has not been particularly successful in addressing all of the reasons for refusal of the previous Keirs Hill wind farm, they have made some progress through the reduced number of turbines proposed, and general shift westwards, further from the Doon Valley, in the siting of the turbines. This has a clear benefit to the High Keirs property for example, which is now adjudged to no longer be subject of overbearing visual effects.

- 134.** The Reporter found when considering that previous scheme that the landscape within which the turbines were proposed was relatively low compared to the valleys (Doon and Girvan) and as a result the scale of those turbines (149.9m in height) would appear excessive and out of scale with the landform and have an adverse landscape impact. The turbines now proposed as the Scienteuch wind farm would be notably larger in scale at both 180m and 200m in height so would be even more out of scale with the landform than the previous wind farm proposal which was refused by Scottish Ministers. As noted above, the Planning Authority recognise that the westward shift of turbines and their reduced number has had some beneficial effects in that there are only 4 turbines which are particularly prominent in views from the Doon Valley, and the westward shift has also meant no residential property is now considered to experience impacts which would exceed the threshold of residential visual amenity. The Planning Authority note that the most significant landscape and visual effects would be experienced in the northern parts of the Doon Valley (rather than the entire valley) primarily out to around 2-3km, but extending out to approximately 5km, but beyond this distance, impacts vary but tend to decrease in significance. In considering the specific wording of Policy 11(e)(ii) it recognises that significant landscape and visual impacts are to be expected from some forms of renewable energy development. It continues that where such impacts are localised they will generally be considered to be acceptable. Although there is no definition of what sort of distance constitutes a 'localised' impact, the Planning Authority consider that in this case, given the most significant adverse landscape and visual impacts would be experienced from the northern parts of the Doon Valley, notably out to around 5km, that the majority of impacts resulting from Scienteuch could reasonably be argued to be localised and as such, under the wording of Policy 11, would be considered to be acceptable.

iii. public access, including impact on long distance walking and cycling routes and scenic routes;

- 135.** There is one Core Path (D6: Patna to Straiton) which cuts across the north-western corner of the application site, though this falls within South Ayrshire Council. In East Ayrshire there are no Core Paths or Rights of Way falling within or partly within the application site. There are a number of such routes within close proximity to the application site, including D6 which is located to the north of the application site alongside D5: Patna Bridleway, also located to the north. Others are located within the Doon Valley and on its eastern slopes, with others located to the south-east around Dalmellington and the Craigengillan Estate. Rights of Way also follow some of these same routes or are located in similar locations.
- 136.** Given the proximity of the proposed turbines to such routes and in particular the scale of the turbines there would be unavoidable significant adverse impacts on these routes, mainly through visual impacts affecting those using the paths/rights of way for recreation. VP6: Lethanhill would represent views for users of Core Path D10: Patna and Waterside Circular (and associated right of way). The proposed Scienteuch wind farm would be prominent across a wide expanse of the western

containing hillside and would be highly prominent from this path route, with a clear scale differential between the proposed turbines and existing turbines in the view. Similarly VP5: Auchenroy Hill shows the significant adverse visual impact the turbines would introduce into views from this hill. Views from recreational paths are not entirely affected by wind turbines so on balance, despite some significant adverse impacts on users of these routes, the routes are not considered to face unacceptable adverse impacts.

- 137.** Cumulative impacts would largely be experienced due to the proposed development in combination with Dersalloch (which has already been noted above) and the proposed Knockkippen S36 wind farm on the eastern containing landscape of the Doon Valley. In combination these would result in clear views of prominent, very large scale turbines in both easterly and westerly directions when viewed from recreational routes in and around the Doon Valley. Dersalloch is operational and forms part of the baseline so it would be the introduction of the other schemes into this baseline which would have the potential to contribute most notably to the cumulative impact scenario. At this time Knockkippen wind farm is still an application stage wind farm (with Scottish Ministers yet to make a determination) so there is no certainty as to what the ultimate outcome of that application will be so limited weight would be given to that proposal at this time. With the above in mind, it is considered that the proposed Scienteuch wind farm would contribute to significant cumulative impacts on users of recreational routes, however such impacts are not considered to be unacceptably adverse, despite significant adverse residual impacts.
- 138.** The A713 is part of the Galloway Tourist Route between Ayr and Castle Douglas and is recognised for its scenic qualities. The proposed development would introduce significant adverse landscape and visual impacts, as discussed previously within this report, which would be experienced similarly by users of the tourist route. Impacts on this route would be significant although relatively localised to sections of the road through the Doon Valley (primarily around the Dalmellington, Waterside, Patna and Polnessan settlements) and on the approach from the north and south to these settlements. With increasing distances the impacts would be comparatively reduced. Although impacts on this route would be significant, they would not affect the whole route and users' attention would often be on the road ahead, albeit the scenic qualities of this route are part of its recognised status, so appreciation of the scenery is clearly anticipated by users of the route. On balance, despite significant adverse impacts on the experience of users on the Galloway Tourist Route, the impacts are not considered to be so adverse as to be unacceptable.

iv. impacts on aviation and defence interests including seismological recording;

- 139.** With regards to aviation and defence interests, at the time of writing, both NATS and Glasgow Prestwick Airport object to the proposed development due to its impacts on aviation safeguarding interests, notably radar impacts. It will be for Scottish Ministers as the determining authority to consider these impacts and any implications this might have for the proposed development, and whether or not it would be possible to overcome the impacts by condition. From past experience objections are eventually withdrawn once contracts are in place between the aviation bodies and the applicants to ensure the aviation safeguarding issues can be satisfactorily mitigated. Such matters are beyond the expertise of the Council and it will be for the relevant aviation consultees, through discussion with the Scottish Ministers and Applicant to address these matters.

- 140.** Given that all nine turbines exceed 150m in height they will require visible aviation safety lighting under Civil Aviation Authority requirements. Such matters have been discussed in more detail previously within this report where direct impacts of these are most apparent with regards to landscape and visual impacts. Specifically with regards to aviation interests, subject to appropriate conditions to secure appropriate lighting, the proposal would not conflict with aviation and defence interests insofar as aviation lighting is concerned, though this would require to be confirmed through consultation with the relevant aviation bodies by the Scottish Government.
- 141.** No issues regarding seismological recording have been raised with regards to the proposed development.

v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;

- 142.** Consultation responses to the Scottish Government from relevant bodies with a remit in such matters have noted that no significant impacts to telecommunications and broadcasting installations are predicted to result from the proposed development. Appropriate conditions could be attached, should Scottish Ministers grant consent, to ensure mitigation is delivered in the event of telecommunications interference.

vi. impacts on road traffic and on adjacent trunk roads, including during construction;

- 143.** Road traffic generated as a result of the proposed development will include delivery of turbine components, BESS infrastructure and other related construction materials, construction vehicles and associated staff travel. Chapter 11 of the EIA Report indicates that turbine blades will be imported to King George V docks in Glasgow, before making their way down to the A77 and south towards the A713 and/or the B741 to access the site. All other turbine components would be imported either via the Port of Ayr or the docks in Glasgow and would make the same way to the application site from the A77 southwards. In terms of the two site accesses, all abnormal load deliveries and construction delivery vehicles will access the site via the proposed A713 entrance. The B741 access will be used for access to plant and equipment for site establishment and staff entrance. HGVs accessing the B741 entrance will do so from the west due to restrictions on weight over the Doon Bridge.
- 144.** The construction period would last approximately 14 months and during this time, in terms of peak construction activity, the Applicant's EIA Report suggests in Chapter 11, based on details in the associated technical appendices, there would be a peak period of construction traffic during month 3 where the total number of vehicles associated with the construction of the proposed development would be approximately 88 HGV movements (44 arrivals and 44 departures) and 35 car/LGV movements (18 arrivals and 17 departures) per day. This would equate to approximately 4 HGVs arriving at and 4 departing the site each hour, assuming a 12-hour working day (7am – 7pm). It is worth noting that construction traffic levels vary and after the first few months when activity is most intensive, construction vehicle numbers associated with the site decrease as the site development advances, consequently resulting in a reduction in traffic on the road network. The Applicant is proposing the use of a borrow pit (confirmation in correspondence to SEPA that only one borrow pit will be progressed) which should reduce the number of vehicle movements to the site as aggregate for construction such as access tracks can be sourced from the site, reducing the need for importation of such materials.

- 145.** Cumulative traffic impacts are discussed in the EIA Report with a number of other consented and proposed wind farms being possible contributors where they would utilise similar traffic routes to reach the respective sites. Knockkippen wind farm is an obvious omission from this assessment which was an application stage wind farm at the time of submission of the Scienteuch application, and is the development most likely to contribute to cumulative impacts given its location almost directly opposite Scienteuch on the other side of the Doon Valley, also taking access from the A713. That proposal, however, remains at the application stage with Scottish Ministers yet to reach a determination so there is no guarantee it will ultimately be consented by Scottish Ministers. The consented developments taken into account in the Applicant's EIA Report would see a large increase in traffic flows on all of the assessed road network links, with sufficient capacity on most except for the A77 trunk road between the Holmston and Whitletts roundabouts in South Ayrshire. It is unlikely, however, that all schemes would be under construction at the same time, with both North Kyle and Enoch Hill wind farms currently under construction.
- 146.** Nevertheless, mitigation is proposed in respect of traffic impacts. Abnormal load vehicle movements would take place, subject to Police Scotland approval, in the evenings out with busy periods which would reduce impacts on road users. Site working hours would be limited to avoid evenings and Sundays and public holidays. The hours the Council would seek through condition, if Scottish Ministers grant consent, would be 7am – 7pm on Mondays to Fridays and 7am – 12pm on Saturdays with no working out with these hours. A Construction Traffic Management Plan (CTMP) would be required and this would ensure there were management measures in place which could ensure there were no overlapping development periods taking place which could have an adverse impact on the road network. Road condition surveys would also require to be undertaken at regular intervals by the Applicant with the Ayrshire Roads Alliance (ARA), and ARA would require the Applicant to enter into a legal agreement with them to cover the costs of repairs for any damage to the public roads as a result of the construction traffic. The Applicant also proposes a Path Management Plan within the application site to ensure impacts on pedestrians and cyclists are adequately dealt with and their safety maintained whilst using any paths and routes on site whilst construction traffic is present on site.
- 147.** ARA have no objections to the proposed development, subject to a number of conditions to secure appropriate mitigation. Transport Scotland similarly raised no objections, subject to conditions, in their consultation response to the Scottish Government and all such matters can be sought by appropriate conditions through the Scottish Government Energy Consents Unit.

vii. impacts on historic environment;

- 148.** Such impacts have already been considered under Policy 7 of NPF4 and the assessment of such matters. As explained under that policy, there are effects on the appearance of the Scheduled Monuments and the Waterside Conservation Area, primarily by way of the large scale nature of the turbines being prominent in views from and around those designations. It is considered that these impacts go further than those assessed by the applicant and will result in some significant effects on those features to the extent that full compliance could not be demonstrated with that Policy 7, although the extent of that non-compliance is limited to the visual impacts caused by the large structures affecting the appearance of the designations. The impact on the integrity of those features is therefore limited to that impact, however that is sufficient to not be able to fully comply with that policy. It is however noted that HES, the body responsible for the scheduled monuments, offer no objection to this development.

viii. effects on hydrology, the water environment and flood risk;

- 149.** The proposed development has been designed to seek to minimise impacts on watercourses, though has not been able to secure 50m buffers from watercourses and proposed infrastructure, as shown in Figure 9.1 of the EIA Report. This is mainly due to sections of access track and construction compound towards the eastern limits of the site, where access is to be taken from the A713. New and upgraded water crossings are required and the Applicant has confirmed these will be designed to pass the 1:200 year flood event standards. There remains a risk therefore of contamination of watercourses due to surface water runoff or other site drainage, especially during the construction period when forestry felling and new track formation results in increased ground exposure.
- 150.** The site itself has limited flood risk potential, with only relatively small pockets of surface water flooding risk identified on SEPA's flood risk maps, though the larger river and surface water flood risk area exists to the eastern edges of the site around the site access associated with areas around the River Doon / access point off the A713. General construction good practice measures such as the use of silt netting / traps, fencing and drainage design would help to minimise the risk of pollution. These details along with others can be set out in a CEMP which would also include a Pollution Prevention Plan (PPP) amongst other aspects, which will set out the full details of the mitigation measures to be employed during construction to ensure pollution risks are minimised and mitigated. ARA Flooding requested a condition to secure the details of the watercourse crossing within the flood risk area to ensure it does not hinder the flow of the river or reduce it any further than the existing crossing and construction should take account of and use water resistant forms of construction materials. A condition to secure details of water crossings on site can be attached to any consent if Scottish Ministers grant consent.
- 151.** With respect to Private Water Supplies (PWS), the Applicant's EIA Report has identified no PWS within the Application Site, though 6 within their study area. The findings of the EIA Report were that all 6 PWS were fed from water sources in catchments separate to any proposed development infrastructure and therefore were not hydraulically connected. As such there should be no risk of impact to any PWS as a result of the proposed development. SEPA noted in their consultation response to the Scottish Government that additional information from the Applicant confirmed the sources of PWS and no PWS sources were identified within SEPA's prescribed buffer zones from wind farm infrastructure.
- 152.** With regards to Groundwater Dependent Terrestrial Ecosystems (GWDTEs), SEPA noted in their consultation response to the Scottish Government that although the Applicant suggests some of the potential GWDTEs on site are rainwater fed SEPA still expects these habitats to be avoided and this will require micrositing of turbine T9 and access track upgrading works to take place on the opposite side of the areas of GWDTE habitat. Such matters can be secured by appropriate condition, if Scottish Ministers grant consent.

ix. biodiversity including impacts on birds;

- 153.** Biodiversity impacts, including impacts on ornithology, have already been assessed previously under NPF4 policies, including Policy 1, Policy 3 and Policy 4. Such impacts, although notable, have been assessed under these separate policies and have not been considered to result in unacceptable impacts, subject to mitigation which would require to be secured by conditions. Regarding Policy 3 specifically and

biodiversity enhancement, this is considered to be capable of being delivered through appropriate conditions if Scottish Ministers consider the current proposals do not go far enough to represent significant biodiversity enhancement.

x. impacts on trees, woods and forests;

- 154.** Such impacts have already been assessed previously under Policy 6 of NPF4. Through that assessment there have been no unacceptable impacts identified, subject to mitigation which can be secured through conditions.

xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;

- 155.** Conditions would be required to be attached to any Section 36 consent, should Scottish Ministers grant consent, relating to the decommissioning of the development and restoration of the site as the proposed development is of a temporary nature. This would be required to ensure that at the end of the lifetime of the consent, or when the wind farm is intended to be decommissioned, whichever is earlier, the site can be returned to its former condition or such other condition as agreed as being satisfactory to the Planning Authority. It is recommended that an Outline Decommissioning and Restoration Plan (ODRP) be secured through conditions and agreed prior to commencement of development. For the avoidance of doubt, the ODRP shall outline appropriate aftercare following site restoration and how and when reviews and, if necessary, updates to the ODRP will take place. It is recommended such reviews take place every 5 years, to coincide with the financial guarantee reviews. This will provide a document that can be utilised by the Council, if required, during the lifetime of the consent and will help inform the restoration quantum value.
- 156.** No later than 1 year prior to the consent expiring or decommissioning of the development, whichever is earlier, the Applicant would then require to submit a full Decommissioning, Restoration and Aftercare Plan, based on the ODRP but updating and fully detailing it. A planning condition should be used to secure this detailed Decommissioning, Restoration and Aftercare Plan. This two-stage approach is advocated by the NatureScot guidance document 'Decommissioning and Restoration Plans for wind farms'.

xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and

- 157.** This relates to the criterion above and would require the submission of an ODRP which will inform the Council's assessment of costs for undertaking the decommissioning of the development and restoration and aftercare of the site should the Applicant fail to do so. The Council's adopted approach to securing financial guarantees is through both planning conditions and legal obligation. The Applicant has agreed to enter into a Section 75 legal agreement with the Council to address this matter, and the Council's consultation response to the Scottish Government should make this requirement clear and stipulate that a legal agreement be concluded before consent is issued or that other arrangements to secure a legal obligation are agreed to the satisfaction of the Planning Authority. Details of the Applicant's and Council's current position regarding a financial guarantee are discussed later in this report.

xiii. cumulative impacts.

- 158.** Cumulative impacts are discussed under the other criteria where relevant. The most relevant cumulative impacts associated with this application would be landscape and visual impacts, traffic impacts and noise impacts. Noise and traffic impacts have been discussed under the relevant criterion previously, so the focus of this section will be on cumulative landscape and visual impacts.
- 159.** Considering cumulative landscape and visual impacts, there are increasing numbers of operational, consented and application stage wind farms and individual turbines throughout the southern part of the East Ayrshire district, and beyond. LCT 17a Foothills with Forestry and Open Cast Mining, on the eastern side of the Doon Valley, has a number of large wind farms already consented including North Kyle S36, Greenburn S36, Polquhairn and Overhill wind farms and the Knockshinnoch wind turbines. These other wind farms are located towards the north, east, and the core of this LCT, whilst the application stage Knockkippen S36 wind farm would extend impacts to the western edge of the landscape. The other wind farms in that landscape have a lesser contribution to cumulative landscape and visual impacts than Knockkippen would. So in terms of cumulative impacts in respect of the proposed Scienteuch wind farm, the more easterly, distant wind farms have less of an impact cumulatively, as these are not as readily visible from viewpoints alongside Scienteuch in combination.
- 160.** The key schemes to consider in a cumulative context would be the existing Dersalloch wind farm, into which the proposed Scienteuch wind farm would result in significant cumulative impacts, particularly when viewed from such locations as VP6: Lethanhill where the clear scale differential is apparent, with Scienteuch bringing turbines closer to the Doon Valley and appearing notably larger in comparison with the existing Dersalloch turbines. IFL note in their consideration of cumulative impacts (based on a scenario of existing and consented wind farms) that other operational and consented wind farms further afield add relatively little to the cumulative baseline by comparison with Dersalloch. IFL also consider there will be significant cumulative landscape impacts on the host landscape (LCT 17b) due to Scienteuch in combination with Dersalloch. IFL also note certain viewpoints would experience significant adverse cumulative effects although these tend to be limited to those with clear views of both the Dersalloch and proposed Scienteuch wind farms (such as VP5: Auchenroy Hill or VP6: Lethanhill). Significant effects would also extend to other receptors including the B741 road and core paths between Patna and Straiton, and within the Doon Valley.
- 161.** In a scenario where currently proposed (but as yet undetermined) wind farms are considered, the most notable wind farm to consider in such a cumulative scenario would be the proposed Knockkippen wind farm on the eastern containing hills of the Doon Valley. In this case, Scienteuch would contribute to significant cumulative landscape and visual impacts as it would result in both containing skylines of the Doon Valley being dominated by very large scale wind turbines extending widely, laterally across these containing landforms. IFL note that this would result in further significant adverse cumulative landscape and visual impacts on LCT 10 and the northern parts of the Doon Valley SLA/LLA, with significant visual impacts on settlements within the Doon Valley, such as in Patna and Waterside. Cumulative night time visual impacts would also be an issue as the scale of both Scienteuch and Knockkippen wind farms would necessitate the use of visible aviation safety lighting, visible on the dark skylines on both sides of the valley.

- 162.** The Planning Authority would generally agree with the findings of IFL in their audit regarding cumulative landscape and visual impacts. Although there would be significant cumulative impacts in an existing and consented baseline scenario, Scienteuch would not add such increased cumulative impacts that these would be considered to be unacceptably adverse. In a scenario where proposed wind farms are taken into the baseline, then Scienteuch would add considerably to the cumulative landscape and visual impacts alongside Knockkippen wind farm. This would result in very large scale turbines being prominent on both containing landforms, effectively flanking this part of the Doon Valley, with cumulative landscape and visual impacts extending into the night time due to both schemes requiring visible aviation lighting. This would represent adverse significant cumulative landscape and visual impacts notably on the upper sections of the Doon Valley and associated settlements and the perception and appreciation of this scenic part of the district.
- 163.** At this stage, however, Knockkippen is still an application stage scheme under consideration by the Scottish Ministers with no guarantee of the eventual decision to be made, therefore limited weight would be placed on that scheme at this time in considering any cumulative impacts. It should be noted though that the Council in its consultation response to the Scottish Government on the proposed Knockkippen wind farm agreed not to object to that development and therefore there is likely to be a greater chance that Scottish Ministers will ultimately consent that scheme, though this is not a certainty.
- 164.** In summary, taking account of the criteria and other relevant considerations set out in Policy 11, the proposed development would result in a number of significant impacts on a range of features, notably landscape and visual impacts and cumulative landscape and visual impacts. Most of the criteria set out under Policy 11 would be complied with or capable of being complied with subject to securing various mitigation measures through appropriately worded planning conditions, which could be attached to any consent if Scottish Ministers granted this.
- 165.** In recognising the history of this site and the previous Keirs Hill wind farm refusal, based on the Planning Authority's assessment, it would appear that although the Applicant has sought to try to address some of the reasons for refusal of the previous Keirs Hill wind farm scheme, primarily by reducing the number of proposed turbines down to 9 and positioning these slightly further west, the increased scale of turbines now proposed has meant that they have not been entirely successful in trying to overcome what were the previously unacceptable significant adverse impacts. The Planning Authority no longer consider impacts on residential visual amenity to exceed the threshold of residential amenity at any properties (despite significant adverse impacts), which is a positive position resulting from the westward shift of turbine positioning and reduced number of turbines compared to the Keirs Hill wind farm. Nevertheless, significant adverse landscape and visual impacts would result from the proposed Scienteuch wind farm, notably affecting the northern part of the Doon Valley and associated settlements. Cumulatively there is also increasing pressure with increases in wind farm proposals throughout the wider area, but most particularly in the form of the proposed Knockkippen wind farm scheme which would see both it and the proposed Scienteuch scheme flank the northern Doon Valley, causing significant cumulative landscape and visual impacts.

- 166.** In considering the positives and negatives of the proposed development, it is clear that although there will be a number of significant impacts, a number of these are capable of being mitigated. Residual significant impacts for which little or no mitigation exists would persist, particularly in regards to landscape and visual impacts and cumulative landscape and visual impacts which are a product of the scale and design of the proposed wind farm. Additionally, these impacts also fall on some heritage features in this area.
- 167.** Since the previous refusal of the Keirs Hill wind farm, however, the national planning policy framework has changed, with NPF4 being particularly supportive of all forms of renewable energy development, with electricity generating development exceeding 50MW in capacity, such as the proposed Scienteuch wind farm, now being designated as national developments (being of national importance to deliver the NPF4 spatial strategy to deliver sustainable, liveable and productive places). Furthermore, NPF4 Policy 11(e)(ii) notes that localised significant landscape and visual impacts will generally be considered to be acceptable. The Planning Authority acknowledge that the landscape and visual impacts, though significantly adverse, are relatively localised to the upper Doon Valley area and associated settlements, with the most significant impacts extending out to approximately 5km in distance. The impacts on heritage features are somewhat similar to the general local area, with large turbines being visually prominent when viewed from such features. There will be a degree of impact on the setting of such features although it is noted that HES raise no objection in relation to the Scheduled Monuments in the area. The proposed development would however gain strong support owing to its contribution to Scottish Government renewable energy generation targets and greenhouse gas reduction targets, for which significant weight is to be placed when considering the impacts associated with a proposed development under the terms of Policy 11.
- 168.** With that in mind, and considering most other impacts are not significant, or can be mitigated, the strong weight to be placed on renewable energy generation targets and the acceptance of significant localised effects in the policy, in considering the impacts of the proposed development in the planning balance, the proposed development would on balance generally overall accord with the provisions of Policy 11. It will be important to ensure, however, given the concerns the Planning Authority has identified with the eastern-most turbines, that should Scottish Ministers grant consent, any micro-siting permissible will require to restrict any movement of turbines further east from the currently proposed location or on land at a higher elevation than currently proposed.

Policy 33: Minerals

- 169.** *d) Development proposals for the sustainable extraction of minerals will only be supported where they:*
- (i) will not result in significant adverse impacts on biodiversity, geodiversity and the natural environment, sensitive habitats and the historic environment, as well as landscape and visual impacts;*
 - (ii) provide an adequate buffer zone between sites and settlements taking account of the specific circumstances of individual proposals, including size, duration, location, method of working, topography, and the characteristics of the various environmental effects likely to arise;*
 - (iii) can demonstrate that there are no significant adverse impacts (including cumulative impact) on any nearby homes, local communities and known sensitive receptors and designations;*

- (iv) *demonstrate acceptable levels (including cumulative impact) of noise, dust, vibration and potential pollution of land, air and water;*
- (v) *minimise transport impacts through the number and length of lorry trips and by using rail or water transport wherever practical;*
- (vi) *have appropriate mitigation plans in place for any adverse impacts;*
- (vii) *include schemes for a high standard of restoration and aftercare and commitment that such work is undertaken at the earliest opportunity. As a further safeguard a range of financial guarantee options are available, and the most effective solution should be considered and agreed on a site-by-site basis. Solutions should provide assurance and clarity over the amount and period of the guarantee and in particular, where it is a bond, the risks covered (including operator failure) and the triggers for calling in a bond, including payment terms.*

e) *Development proposals for borrow pits will only be supported where:*

- (i) *the proposal is tied to a specific project and is time-limited;*
- (ii) *the proposal complies with the above mineral extraction criteria taking into account the temporary nature of the development; and*
- (iii) *appropriate restoration proposals are enforceable.*

170. As there are two borrow pit search areas proposed (though further correspondence to SEPA confirms only one borrow pit will be progressed) as part of the proposed development then Policy 33 is applicable. Part (e) is most applicable, though does have a requirement that such proposals also comply with the mineral extraction criteria which are set out in part (d) of the policy. The borrow pits are part of the proposed development and so have been taken into account in the Applicant's Environmental Impact Assessment and the results of that assessment are set out in their EIA Report submitted in support of the application.

171. In terms of the impacts, such as landscape and visual impacts, biodiversity, historic environment and sensitive habitats, amongst the other considerations, these have been assessed under various policies of NPF4 above and the proposed development, including the borrow pits, has not been found, on balance, to result in unacceptable impacts on any such criteria, subject to mitigation. The proposed borrow pit search areas are towards the approximate centre of the application site which is a reasonable distance from any nearby properties and more distant settlements. They would also only be worked for a relatively short duration during the construction period of the wind farm, and would be strictly associated with the wind farm, with no commercial extraction of material for aggregate sale offsite.

172. With regards to dust, noise and other potential pollution sources, these can be controlled by conditions ensuring that blasting only takes place between certain hours of the day and measures are in place to undertake dust suppression and other pollution prevention measures. Many of these would be addressed by a Construction Environmental Management Plan which would deal with many environmental mitigation measures associated with the construction of all elements of the proposed development. A condition would be attached to any consent, should Scottish Ministers grant consent, requiring the submission of a detailed borrow pit restoration plan for the written approval of the Planning Authority prior to restoration of the borrow pits at the end of the construction period. The Council would also seek a Section 75 legal agreement and conditions to secure an appropriate financial guarantee to cover the costs of decommissioning, restoration and aftercare of the site, which would include costs associated with borrow pit restoration as well as the rest of the development, should the Applicant fail to undertake the required

restoration. Taking the above into account it is considered the proposed development would generally accord with the provisions of Policy 33.

East Ayrshire Local Development Plan (EALDP)

Policy RE1: Renewable Energy Developments

- 173.** *Proposals for the generation and utilisation of renewable energy in the form of new build development, infrastructure or retrofit projects will be supported in standalone locations and as integral parts of new and existing developments where it can be demonstrated that there will be no unacceptable significant adverse impacts on all of the relevant Renewable Energy Assessment Criteria set out in Schedule 1 of the LDP, that the scale of the proposal and its relationship with the surrounding area are appropriate and that all relevant policies are met.*
- 174.** This policy applies to all types of renewable energy development proposals other than, amongst others, wind energy, to which Policy RE3 applies. Policy RE1 is relevant in this case due to the proposed BESS which the Scottish Government consider a form of electricity generation, and will utilise/store renewable energy generated from the proposed wind turbines forming part of the development project. Given both Policy RE1 and RE3 require applications to be assessed against the Schedule 1 Renewable Energy Assessment Criteria, this assessment will not be duplicated, and will be set out below in response to Policy RE3 before conclusions are made, thereafter, in respect of both Policy RE1 and RE3.

Policy RE3: Wind energy proposals over 50 metres in height

- 175.** *All wind energy proposals over 50m in height, including extensions and proposals for repowering, will be assessed using the Spatial Framework for wind development shown on Map 12 and all relevant Renewable Energy and other LDP policies.*

The Council will afford significant protection to Group 2 areas shown on Map 12. Development may be appropriate in some circumstances within these areas in cases where it can be demonstrated that any significant adverse effects on the environmental characteristics of these areas can be substantially overcome by siting, design or other mitigation and where the proposal is acceptable in terms of all applicable renewable energy criteria set out in Schedule 1.

Within those areas shown on the Spatial Framework (Map 12) as Group 3 – Areas with Potential for Wind Energy Development, proposals for wind energy over 50m in height will be supported where it can be demonstrated that they are acceptable in terms of all applicable Renewable Energy Assessment Criteria set out in Schedule 1.

- 176.** The Council's spatial framework for wind energy development was brought forward based on the requirements of the previous Scottish Planning Policy (now superseded by NPF4). NPF4 no longer has a requirement for such a spatial framework for wind energy to be produced. Nevertheless, it remains part of the Council's LDP and as such remains a relevant consideration at this time.
- 177.** The proposed development is located within a Group 2 Area (area of significant protection). The reasons the site falls within a Group 2 area is because the application site falls within 2km buffer areas around nearby settlements, with special consideration required with respect to visual impacts on communities within established settlements, and due to the nationally important Class 1 peatland within the application site.

- 178.** The consideration of impacts on nearby settlements and communities has been set out in detail elsewhere within this report and based on that assessment it is considered that nearby settlements would face significant adverse visual impacts, including cumulatively. Further, with regards to peatland on site, it may be possible to microsite infrastructure to avoid the Class 1 peat though given the design of the wind farm, total avoidance is unlikely to be achieved through micrositing alone. Under the terms of Policy RE3, it is noted that development may be appropriate, in some circumstances, within Group 2 areas where it can be demonstrated that any significant adverse effects on the environmental characteristics of these areas can be substantially overcome by siting, design or other mitigation and where proposals are acceptable in terms of all applicable renewable energy criteria set out in Schedule 1.
- 179.** Regarding impacts on Class 1 peatland, as noted above, micrositing could help further avoid or reduce intrusion across such peatland, though is unlikely to avoid it entirely. Through the use of floating-type construction of any track sections on this peatland, impacts could be reduced as such infrastructure would in theory be constructed on top of the peatland and would not require excavation of peat to accommodate it. These factors, combined with the proposals to enhance peatland elsewhere on site through a Habitat Management Plan are considered to represent sufficient mitigation such that the significant adverse impacts could be overcome.
- 180.** With regards to the significant visual impacts on nearby communities, these are a direct result of the siting and design of the proposed wind farm in the landscape and therefore design and siting cannot substantially overcome the significant adverse impacts. Other than aviation lighting mitigation options (particularly the Applicant's proposed use of aviation activated lighting) which could be secured by conditions, which would provide some limited mitigation of night time visual impacts resulting from the turbines, no other mitigation is available to address the significant adverse visual impacts resulting from the wind farm and therefore, the proposal would fail to substantially overcome the significant effects on the Group 2 areas.
- 181.** As noted above, Policy RE3 also considers, in addition to siting, design and other mitigation considerations, developments in Group 2 areas may be appropriate if such developments are acceptable in terms of all applicable criteria set out in Schedule 1. Schedule 1: Renewable Energy Assessment Criteria – sets out a list of criteria against which relevant applications will be assessed. Each criteria will be addressed below:

Landscape and visual impacts;

- 182.** These have been assessed in detail previously under Policy 11 of NPF4 and have not, on balance under the requirements of that policy, been found to be unacceptable.

Cumulative impacts – likely cumulative impacts arising from all of the considerations below, recognising that in some areas the cumulative impact of existing and consented energy development may limit the capacity for further development;

- 183.** Cumulative impacts have already been assessed in detail under Policy 11 of NPF4 and have not, on balance under the requirements of that policy, been found to be unacceptable.

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

- 184.** Impacts on peatland have been assessed in detail, along with a summary of the carbon calculator findings, under Policy 5 of NPF4 and have not been found to be unacceptable, subject to mitigation.

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

- 185.** As the Scottish Ministers will be making the final decision on the application it is for them to ensure that the integrity of any Natura 2000 sites is not adversely affected. Other more general impacts on natural heritage, including ecology and birds, has been considered in detail under Policies 1, 3, 4 and 11 of NPF4 and have not been considered to be unacceptable, though this will be subject to mitigation secured by conditions.

Impacts on wild land;

- 186.** The application site is not located within a wild land area, though the Merrick Wild Land area to the south of the application site, just fringing on the southern edges of the East Ayrshire Council district, has been noted by NatureScot in its consultation response to the Scottish Government as facing significant day and night time impacts on the Wild Land Qualities of the area. Despite the concerns raised regarding the significant impacts on the Wild Land Qualities of the Merrick Wild Land Area, NatureScot noted that since the adoption of NPF4, such concerns would not be a significant consideration for Scottish Ministers in determining the application. As such and with Dersaloch wind farm already located closer to the wild land area, the Planning Authority would concur with NatureScot's position.

Impacts on all aspects of the historic environment;

- 187.** Impacts on the historic environment have been assessed in detail under Policies 7 and 11 of NPF4. Significant visual effects that will impact the appearance of the Waterside Conservation Area and scheduled monuments in particular are noted, which do not fully comply with the requirements of those policies. Some localised significant impacts on other historic environment features in the area are noted but do not affect the overall heritage feature, such as Craigenjillan. It is also noted that HES have raised no objection to the development and this position should be considered when the degree of non-compliance is weighted.

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

- 188.** Impacts on the water environment, including GWDTEs, have been assessed in detail under Policy 11 of NPF4 and have not been found to be unacceptably adverse, subject to conditions.

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

- 189.** In terms of forest removal and waste this has been discussed in detail under Policy 6 of NPF4 and it is considered the proposed re-use, primarily comprising merchantable timber with some limited on-site brush matting where appropriate or export for biomass. With regards to the re-use of excavated peat, this has been considered in detail under policy 5 of NPF4. Peat will be handled and managed appropriately,

including any temporary storage, in line with good practice and a detailed Peat Management Plan which can be secured by conditions.

Impacts on forestry and woodland, with reference to the Ayrshire and Arran Forestry and Woodland Strategy (2013):

- 190.** The Ayrshire and Arran Forestry and Woodland Strategy (2013:35) notes the Scottish Government's aim of reducing carbon emissions and measures to do this will include: the substitution of fossil-based fuels with low carbon and renewable energy sources; improving energy efficiency designed to reduce the demand for fossil fuels, and initiatives to increase the amount of carbon absorbed and retained within the environment. Woodlands and forestry can contribute to all of the above. This document further states, "*increasing the amount of carbon sequestered by woodland is a national priority.*"
- 191.** As discussed previously in this report under Policies 6 and 11 of NPF4, there will be the loss of woodland as a result of the proposed development, though it is considered that suitable onsite compensatory planting (with improved species diversity) and restocking plans would be sufficient to satisfy the aims of the Ayrshire and Arran Forestry and Woodland Strategy, provided that the compensatory planting takes place within Ayrshire and Arran. In order to comply with this document, any planning condition, if consent is granted, should stipulate that compensatory planting be carried out within Ayrshire and Arran if compensatory planting onsite cannot be delivered. A similar condition has been attached to other Section 36 consents for wind farms so should be deliverable with regards to the currently proposed development. All other impacts on forestry and woodland have been assessed in detail under Policies 6 and 11 of NPF4 and have not been found to be unacceptable.

Effect on greenhouse gas emissions:

- 192.** The proposed development would directly help tackle climate change by producing electricity from a renewable source. The loss of and damage to peat on site to accommodate construction of the proposed development will result in the carbon storage capabilities of the site being damaged, which will result in the release of greenhouse gases. Despite this impact, the balance over the lifetime of the development will favour the development's potential to reduce greenhouse gas emissions.

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

- 193.** These impacts have already been assessed in detail under Policy 11 of NPF4 and it is considered that the proposed development will not result in any unacceptable adverse impacts on communities or individual dwellings, including from those matters listed in this criterion, subject to conditions.

Impacts on tourism and recreation:

- 194.** Recreation impacts, mainly relating to walking routes such as Core Paths and Rights of Way have already been considered in detail under Policy 11 of NPF4 with the assessment of landscape and visual impacts also indirectly relating to the impacts on receptors throughout the area where views of the proposed development would be experienced. Such impacts have not been found to be unacceptable despite significant adverse residual impacts on receptors due to landscape and visual impacts.

195. Other than recreational routes there are other tourism and recreational offerings such as hotels, Gardens and Designed Landscapes, the Dark Sky Park, the Dunaskin Heritage Centre and Doon Valley Railway and other leisure facilities which may be impacted by the proposed development. Such impacts will primarily relate to setting impacts where the enjoyment of tourism and recreational facilities may be impacted by views of the proposed development. Impacts will vary depending on the nature of the tourism offering and the extent to which the landscape setting forms a part of the appreciation of the experience/area. Despite impacts, some of which would be significant, much like the landscape and visual impacts, none are considered to impact on any tourism offerings to such an extent that they would be unacceptably adverse. The importance of mitigation for aviation lighting is a key consideration as this and other proposed wind farm developments are getting closer to the Galloway Forest Dark Sky Park (only the fourth in the world and first in the UK to be designated by the International Dark-Sky Association as such) where dark skies are of key importance to the performance and designation of the park. With increased aviation lighting in the skies from wind turbine developments and issues around sky glow (lighting reflecting on clouds) this increases the risk of light pollution. The Scottish Dark Sky Observatory currently objects to this proposed development through their consultation response to the Scottish Government. Mitigation will be necessary to reduce the increasing individual and cumulative impacts of visible aviation lighting.

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

196. Such impacts have already been assessed in detail under Policy 11 of NPF4 and have not been found to be unacceptable. It should be noted that NPF3 is now superseded by NPF4.

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

197. These matters have already been considered in detail under Policy 11 of NPF4 and although it is difficult to quantify socio-economic impacts, the proposed development is likely to provide a net economic benefit to the local area and negative economic impacts are not expected.

Impacts on aviation and defence interests and seismological recording;

198. These impacts have already been assessed under Policy 11 of NPF4. Other than aviation impacts, to which NATS and Glasgow Airport object to at the time of writing, there are no other unacceptable impacts, subject to conditions. Given the Council is not the determining authority, then it will be for Scottish Ministers to determine how to address the outstanding objections from the aviation bodies. No issues have been raised regarding seismological recording.

Impacts on road traffic including during construction and decommissioning;

199. These impacts have already been assessed under Policy 11 of NPF4 and it is not considered that the proposed development would result in unacceptable impacts, subject to mitigation.

Impacts on adjacent trunk roads;

- 200.** Similar to the above comments, such matters have already been assessed under Policy 11 of NPF4 and it is not considered that the proposed development would result in unacceptable impacts on the trunk road network, subject to conditions. Transport Scotland has not raised any objections to the proposed development in its consultation response to Scottish Ministers, subject to conditions.

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

- 201.** These impacts have already been considered under Policy 11 of NPF4 and no relevant consultees have raised any objections to the proposed development in their consultation responses to Scottish Ministers. Therefore it is considered there would be no unacceptable impacts or risks to telecommunications or broadcasting installations as a result of the proposed development. It would be appropriate to include a condition to any consent, if granted by Scottish Ministers, requiring the Applicant to investigate and mitigate for any loss of telecommunication reception reported as a result of the proposed development, should this issue arise.

The appropriate siting and design of turbines and ancillary works;

- 202.** In terms of design, whilst the proposed turbine design is of a typical three bladed design, there are two different heights proposed. Whilst this could result in some variability in appearance, it is not likely that this would be particularly noticeable in the context of a medium scale (in terms of number of turbines) wind farm where views of the turbines would vary as the viewer moves throughout the area. Landscape and visual impacts have been discussed in detail elsewhere within this report and have not, on balance, been found to be unacceptable, despite significant adverse residual impacts. Most of the proposed turbines and associated infrastructure, including the BESS, have been sited to avoid the most sensitive features on the site, though where this has not been the case, the Applicant proposes various mitigation measures to reduce some of these impacts. On that basis, and subject to conditions, it could be loosely argued the siting and design of the proposed development is appropriate, though there will be some significant adverse residual impacts (notably landscape and visual impacts).

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

- 203.** As the proposed wind farm would be time limited (with a proposed 50-year operational lifetime) conditions relating to decommissioning and restoration would be required. It is recommended that an Outline Decommissioning and Restoration Plan (ODRP) be secured through conditions and agreed before commencement of development. For the avoidance of doubt, the ODRP shall outline appropriate aftercare following site restoration and how and when reviews and, if necessary, updates to the ODRP will take place. It is recommended reviews take place every 5 years, to coincide with the financial guarantee reviews. This will provide a document that can be utilised by the Council, if required, during the lifetime of the consent and will help inform the restoration quantum value.
- 204.** No later than one year prior to the consent expiring or decommissioning of the development, whichever is earlier, the Applicant would then require to submit a full Decommissioning, Restoration and Aftercare Plan, based on the ODRP but updating and fully detailing it. A planning condition should be used to secure this detailed

Decommissioning, Restoration and Aftercare Plan. This two-stage approach is advocated by the NatureScot guidance document 'Decommissioning and Restoration Plans for wind farms'.

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

205. The Council considers it is necessary that a robust obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997, as well as a planning condition, be used to secure site restoration by provision of an appropriate financial guarantee. This approach gives the Council the widest scope of powers to secure site restoration and is supported through policy and guidance. This has been the approach taken by the Planning Authority to these type of developments drawing on experience gained through the open cast coal investigations. The following paragraphs explain this rationale.

206. Circular 3/2012 sets out policy tests which planning obligations should meet. The first is that the obligation should be necessary to make the development acceptable in planning terms and that the Planning Authority should first consider the use of a planning condition before using a legal agreement under Section 75 to secure the requirement.

It is considered that a condition would not, on its own, provide the greatest security that an appropriate financial guarantee would be in place for the duration of a consent. It is considered to be essential that the financial guarantee is in place for the full duration of the development without any lapses. Most financial guarantees have a limited lifespan (normally 5 years) and so if the financial guarantee expires, and the Planning Authority requires the operator to obtain a new one, and they refused to do so, the enforcement powers under a planning condition would not give the powers necessary to ensure that a new financial guarantee is obtained.

207. Failure to comply with a Breach of Conditions Notice would ultimately only result in a fine with no means for the Council to carry out remedial action. The issuing of an Enforcement Notice would leave a significant period of time where no guarantee is in place. The remedial action would be to require a guarantee to be put in place. If the developer does not comply with the Enforcement Notice, the Council has the right to enter the land and take steps necessary to remedy the breach. However, this still does not resolve the issue of the need for a financial guarantee to be in place should the developer default in the restoration obligations.

208. It is for these reasons that it is considered necessary for a planning obligation under Section 75 to be put in place to best secure the necessary continual financial security for a site for the lifetime of the development, in preference solely to a condition. A Section 75 obligation is a contractual obligation and in the event that the obligation is not adhered to then either party is entitled to go to court and seek an order for a specific implement. Enforcement through the courts under the terms of a Section 75 obligation would provide the Council with a more straightforward and more appropriate right of enforcement in the event of a breach.

209. The Applicant has agreed in writing to enter into a Section 75 legal agreement with the Council in respect of securing a financial guarantee to cover the costs of decommissioning of the development and site restoration, should the operator fail to do so. The Council's consultation response to the Scottish Government should make this requirement clear and stipulate that the legal agreement be concluded before

consent is issued or that other arrangements to secure a legal obligation are agreed to the satisfaction of the Planning Authority.

The scale and contribution to renewable energy generation targets:

- 210.** Based on the candidate turbines reported in the EIA Report, the proposed development would have a maximum generating capacity of approximately 54MW. This is based on the wind turbines alone. This would increase to 99MW if the BESS element is included. Ambitious renewable energy generation targets from the Scottish Government seek the generation of over 100% of Scottish electricity demand met by renewable sources, and by 2032 the generation of 50% of Scotland's energy across heat, transport and electricity demand from renewable sources. The proposed development would make a modest contribution towards achieving renewable energy generation targets set out in Scottish Government legislation into the future.

Opportunities for energy storage:

- 211.** A Battery Energy Storage System is proposed as part of the development with a generating capacity of approximately 45MW. There are some doubts however as to whether or not the Applicant intends to take this element of the proposed development forward.
- 212.** In summary, the assessment of the proposed development against the renewable energy assessment criteria set out in Schedule 1, predominantly assessed in detail against the corresponding policies of NPF4 where they address such matters, indicates the proposed development, whilst having significant impacts on a number of aspects, would not on balance result in unacceptable impacts, subject to conditions to secure appropriate mitigation. This is based on those matters with which the Planning Authority, as a consultee, is able to advise. The views of other expert consultees will be relevant to Scottish Ministers in determining the application and the extent to which any technical matters can be addressed (such as aviation impacts) by conditions. Reverting back to the requirements of Policy RE3, specifically the Spatial Framework, it acknowledges that development within Group 2 areas may be appropriate in some circumstance where it can be demonstrated that any significant adverse impacts on such areas can be substantially overcome by siting, design or other mitigation and where proposals are acceptable in terms of all other relevant renewable energy criteria set out in Schedule 1.
- 213.** As noted in the opening consideration of Policy RE3, nearby settlements would face significant visual impacts which are a direct result of the siting and design of the proposed development. As such and given the lack of other mitigation capable of substantially overcoming these impacts, then the proposed development would fail that test of Policy RE3. Developments are also required to be acceptable when considered against the detailed renewable energy assessment criteria in Schedule 1. Given the findings of the assessment set out above, primarily assessed in detail against the corresponding policies of NPF4, it has been found that the proposed development would, subject to conditions to address certain matters (and assuming consultees with a relevant remit are satisfied that conditions can address matters of relevance to themselves), be viewed favourably against the Schedule 1 criteria.
- 214.** It is worth noting that the detailed assessment against the Schedule 1 criteria found that although nearby settlements would face significant adverse visual impacts, these impacts would not be unacceptably adverse. As such, impacts on the Group 2 areas have not been substantially overcome by siting, design or other mitigation, and the

proposal would fail to satisfy Policy RE3 in that respect. It is considered that as the detailed assessment against the Schedule 1 criteria has not identified unacceptable adverse visual impacts on nearby settlements, on balance, weighing up the non-compliance with the Spatial Framework against the findings of the other relevant criteria of that policy which are for the most part compliant, it is considered that the proposed development would be considered on balance to comply with Policy RE3 overall.

- 215.** Also noted in the opening considerations of Policy RE3, NPF4 no longer requires that spatial frameworks for wind energy be produced, so there could be argued to be a degree of incompatibility between NPF4 and Policy RE3 of the Council's EALDP. Under Section 24(3) of the Town and Country Planning (Scotland) Act 1997 as amended it states, "*In the event of incompatibility between a provision of the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail.*" As NPF4 was adopted in 2023 and the Council's EALDP in 2017, the provisions of NPF4 would prevail. This would have been more determinative had the assessment against the Policy RE3 spatial framework for wind energy indicated unacceptable impacts resulting from the proposed development. To conclude, the proposed development is therefore considered to not comply with the spatial requirements of Policy RE3 however as that approach is not compatible with NPF4, it is considered that any non-compliance should not be afforded significant weight, and that taking the Policy in total, the development does not conflict overall with Policy RE3, and also Policy RE1 which requires applications be assessed against the same Schedule 1 criteria as Policy RE3.

Policy RE5: Financial Guarantees

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

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

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

Supplementary Guidance on Financial Guarantees supports policy RE5 by providing further detail on: why financial guarantees are required; different types of financial guarantees that are available on the market; the approach to securing financial guarantees in terms of the process the Council will undertake, and how financial guarantees will be monitored and reviewed.

- 217.** The proposed development is a large-scale and complex wind energy development, which would be time limited, requiring all turbines and associated infrastructure be removed at the end of the consent period, unless otherwise agreed. As a result, the

proposed development requires a financial guarantee. The Applicant has confirmed in written correspondence to the Council, agreement to the provision of a financial guarantee through a Section 75 legal agreement. On the basis of the agreed position that a Section 75 legal agreement be used for the provision of a financial guarantee, the proposed development would meet the terms of this policy.

Policy ENV8: Protecting and Enhancing the Landscape

218. *The protection and enhancement of East Ayrshire's landscape character as identified in the Ayrshire Landscape Character Assessment will be a key consideration in assessing the appropriateness of development proposals in the rural area. The Council will require that:*

- (i) Development proposals are sited and designed to respect the nature and landscape character of the area and to minimise visual impact. Particular attention will be paid to size, layout, materials, design, finish and colour.*
- (ii) Where visual impacts are unavoidable, development proposals should include adequate mitigation measures to minimise such impacts on the landscape.*
- (iii) Particular features that contribute to the value, quality and character of the landscape are conserved and enhanced. Development that would result in the loss of valuable landscape features, to such an extent that character and value of the landscape are unacceptably diminished, will not be supported. Such landscape features include:*
 - a. Settings of settlements and buildings within the landscape;*
 - b. Skylines, distinctive landforms features, landmark hills and prominent views;*
 - c. Woodlands, hedgerows and trees;*
 - d. Field patterns and means of enclosure, including dry stone dykes; and*
 - e. Rights of way and footpaths.*

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

219. The criteria above have been considered in detail through the detailed assessment against the relevant sections of Policy 11 of NPF4 and the Schedule 1 assessment under Policies RE3 and RE1 of the EALDP so will not be discussed in detail further here. It is worth highlighting that in terms of criterion (ii), above, it is understood that large-scale wind farm developments, due to their scale and nature, will mean that visual impacts are generally unavoidable with little in the way of mitigation available to address such impacts. As such and given the significant landscape and visual impacts which would occur, the proposed development could be argued to be contrary to this policy in part, notably parts (i) and (ii).

220. The proposed development would have significant adverse impacts on the settings of settlements and buildings within the landscape, particularly Patna and Waterside, and would be a significant intrusion into the skyline of the western slopes of the Doon Valley. Some mitigation options can be secured by conditions, if Scottish ministers grant consent, to reduce (though not eliminate) the landscape and visual impacts associated with the aviation lighting during low light/night time periods. There would, however, be no further mitigation and resultant residual landscape and visual impacts would be significantly adverse. As such, it is considered that the proposed

development would be contrary to Policy ENV8 given the conflict with criteria (i) and (ii).

Overarching Policy OP1

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

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

222. The full assessment of the proposed development against the relevant LDP policies has taken place previously within this report. The proposed development would contribute towards a low carbon economy and taking into account all relevant environmental, community and cumulative impact considerations, is considered to strike an acceptable balance, albeit finely balanced given the nature of the residual significant effects, subject to mitigation measures. Although landscape and visual impacts will be significant, most notably on the upper Doon valley and the people and locations (including heritage features) within that area, these have been found, on balance with the benefits of the development and strong policy support for such development in principle, to be acceptable. In terms of the spatial strategy, wind energy development is to be located in the rural area and its appropriateness will be assessed against the framework for wind energy development. As noted previously within this report, the spatial framework for wind energy is no longer required through national planning policy (set out in NPF4) so this has less relevance in the consideration of the proposal, with NPF4 prevailing where there is any incompatibility between current LDP policies and those of NPF4.

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

223. As demonstrated through the detailed assessment throughout this report, the proposed development would for the most part be compatible with surrounding land uses and has no unacceptable impacts on the environmental quality of the area, though this is subject to delivery of mitigation which will require to be secured by conditions.

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

224. This criterion is not particularly relevant to wind energy developments as due to the scale and nature of such developments, significant landscape and visual impacts are generally unavoidable. Consequently, no such development would ever be able to achieve the aim of 'enhancing the character and amenity of an area'. In this respect the proposed development would conflict with this criterion.

- (iv) Where possible, reuse vacant previously development land in preference to greenfield land;*

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

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

226. Since the adoption of NPF4, SPP is superseded and no longer relevant, so there is nothing in this criterion which is applicable to the proposed development.

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

227. This criterion is not applicable to the type of development proposed.

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

228. This criterion is not applicable to the type of development proposed.

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

229. No such designations fall within the application site so no loss of any such land will result should the proposed development be consented.

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

230. The consideration of impacts on natural and built heritage has been detailed elsewhere within this report, under the relevant policies of NPF4 and EALDP. The proposed development is not considered to unacceptably impact on natural or built heritage, subject to conditions although it should be noted that the setting and overall appearance of a range of heritage features will, to an extent, be adversely affected generally through the visual impact of the turbines in views in and around the heritage features.

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

231. These matters have been assessed previously within this report under the relevant policies of NPF4 and the EALDP. Some landscape and visual impacts could result in a degree of impact on the tourism value of some resources at present, particularly walking routes. Nevertheless, such impacts have not been considered to be unacceptable. The landscape character of the local area in particular would suffer from some significant adverse residual impacts, though despite these impacts, these are not considered to be unacceptable.

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

232. The Ayrshire Roads Alliance has not raised an objection to the proposed development, subject to conditions to address traffic impacts, which should be attached to any consent, if granted by Scottish Ministers.

(xii) *Be accessible to all.*

- 233.** Given the nature of the proposed development, such a criterion is not particularly applicable. The development site is currently used for rough grazing with extensive areas of commercial forestry and this would generally remain the case were the proposed development to be constructed. The construction of the wind farm might upgrade and introduce additional tracks on site which could lead to a slight improvement in overall accessibility on an informal basis within the site.
- 234.** The full assessment of the proposed development against the relevant LDP policies and material considerations can be found elsewhere within this report. The assessment of each criterion above (insofar as they are relevant, and which can be further supported by reading the full assessments in the relevant parts of this report) indicates the proposed development will have some significant adverse impacts, particularly in terms of landscape and visual impacts. This explains the conflict with criterion (iii) of Policy OP1. Despite this conflict, in taking account of all other relevant matters under consideration in Policy OP1 and bearing in mind the nature of wind farm developments means some significant landscape and visual impacts are generally unavoidable, it is considered that the proposed development would comply, on balance overall, with Overarching Policy OP1.

The following LDP policies are also relevant to the proposed development to varying extents, however, detailed consideration of the aspects relevant to each of these policies has been undertaken within the various sections of the Schedule 1 assessment under Policies RE1 and RE3 and more particularly under the relevant policies of NPF4. Given the outcome of the assessment of Schedule 1 criteria indicates the proposed variation does not unacceptably impact on those elements, then it can be considered that the proposed development also complies with, or would otherwise not be unacceptable when assessed against the following policies:

Policy RES 11: Residential Amenity;

Policy ENV1: Listed Buildings;

Policy ENV2: Scheduled Monuments and Archaeological Resources;

Policy ENV4: Gardens and Designed Landscapes;

Policy ENV6: Nature Conservation;

Policy ENV 7: Wild Land and Sensitive Landscape Areas;

Policy ENV9: Trees, Woodland and Forestry;

Policy ENV10: Carbon rich soils;

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

Policy T1: Transportation requirements for new development, and

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

- 235.** In addition to the policies listed above, to summarise the findings of the detailed assessments against the EALDP undertaken in this report, the proposed development is also considered to accord with the following policies:- **Overarching Policy OP1; RE1: Renewable Energy Developments**, and **RE5: Financial Guarantees**.
- 236.** The proposed development does not accord with **Policy ENV8: Protecting and Enhancing the Landscape** (though this on its own would not be afforded much weight in the overall planning balance when taking account of the findings of all other relevant policies, and the more recent NPF4 policies), and only partially complies with **Policy RE3: Wind energy proposals over 50 metres in height** (due to significant adverse impacts on Group 2 Areas under the Spatial Framework element of that policy, though for the reasons set out previously the Spatial Framework would be afforded little weight in the planning balance).

East Ayrshire Minerals Local Development Plan (MLDP)

- 237.** As the proposed development involves an element of mineral extraction and the application site falls partly within the Coalfield Communities Landscape Partnership Area then the MLDP will also be a relevant consideration in assessing the application.

Policy MIN SS2: Minerals Restoration and Placemaking

- 238.** *All development should:*

- (i) *Progressively restore the land to the highest possible standard which is suitable for other appropriate uses; and*
- (ii) *Identify opportunities for environmental improvement in restoration and incorporate these where practicable.*

These principles will provide the foundation to provide appropriate future development and encourage growth and placemaking within the area.

- 239.** Whilst not a minerals application itself, the application does propose the provision of up to two borrow pits (though correspondence with SEPA by the Applicant suggests this is now only one borrow pit) as part of the development which would be a relevant consideration for this policy. Given the comparatively small nature of the borrow pits (relative to an opencast or aggregate quarry site) it is not possible to progressively restore them as they are worked. Upon completion of the construction period of the proposed wind farm, however, the proposed borrow pits would be restored. This approach is considered appropriate and is normal practice in such cases. The restoration of the borrow pits will likely involve regrading of the final pit profile and use of overburden in the area. There are no particular wider environmental improvement opportunities through the restoration of the borrow pits though reduced impacts will be a benefit from restoration of these features. The proposed development is considered to accord with Policy MIN SS2.

Policy MIN SS3: Coalfield Communities Landscape Partnership

- 240.** *The Council will encourage and support developments that contribute to the vision and aims of the Coalfield Communities Landscape Partnership, as a key means of regenerating and rejuvenating the former coalfield area.*

The vision of the Coalfield Communities Landscape Partnership (CCLP) is that, “Thriving Coalfield Communities will share in their benefits of a renewed and resilient landscape, welcoming visitors from afar to celebrate their unique heritage, promote stewardship of the land and create new opportunities to enjoy the landscape, shaped by understanding of the past and needs of the future.” The aims are as follows:

- *Conserve and enhance the natural, built and cultural heritage for the benefit of people in the landscape;*
- *Create and expand opportunities for learning, recreation and wellbeing within the landscape for people with a range of abilities and backgrounds;*
- *Reveal and explore the past lives of the communities, drawing upon their close relationship with the land, thereby connecting people with their heritage and inspiring stewardship;*
- *Foster and equip people with the skills and knowledge to manage their landscape sustainably, building capacity and making it a successful place for residents and visitors alike, and*
- *Communities will be connected through, rather than separated by, their landscape, culture and heritage.*

241. The MLDP provides a full list of projects proposed at stage 1 application within Annex 4. At this point in time there are no CCLP site specific projects within the application site. The access tracks proposed for this development could help improve access in this area more generally, alongside the proposed Keirs Glen Trail. Overall, the proposed development has the potential to make a very limited positive contribution towards the Coalfield Communities Landscape Partnership visions and aims. Given the strategic nature of the vision and aims of the CCLP it is considered, on balance, that the proposed development has the potential to draw some limited support in principle from the CCLP and could be considered to accord with Policy MIN SS3.

Policy MIN SUP2: Borrow Pits

242. *Borrow pits will only be permitted where it can be determined that:*

- *there are significant environmental or economic benefits compared to obtaining material from local quarries;*
- *they are time-limited;*
- *they are tied to a particular project, and*
- *there are appropriate reclamation measures in place.*

All borrow pits will be required to be within the planning application boundary of the project the mineral is to be used for. The requirement for the formation of an additional borrow pit will need to be justified in terms of insufficient (fit for purpose) supplies in the first borrow pit.

In addition to being assessed against the broader provisions of the plan, proposals for borrow pits will be considered in relation to:

- (i) *The needs of particular construction projects;*
- (ii) *The distance of the project from suitable quarries;*
- (iii) *The number of vehicle movements which will be avoided;*
- (iv) *Carbon assessments;*
- (v) *The duration of the excavation;*
- (vi) *Site specific proposals for restoration and aftercare;*

- (vii) *Environmental considerations such as impacts on the water environment including watercourses and GWDTEs; and*
- (viii) *Potential disturbance to wildlife.*

The Council will require applicants to submit supporting evidence in respect of the above criteria to accompany any application which involves the creation of borrow pits.

- 243.** The Applicant is proposing to use up to two borrow pits during the construction of the proposed development. In the first instance it should be noted that Policy 33 of NPF4 no longer requires evidence that borrow pits have significant environmental or economic benefits when compared to importing stone from quarries. Given the relatively remote location of the site, this will reduce the number of HGV deliveries to the site, therefore reducing the consequent noise, traffic and pollution impacts on the environment, particularly for receptors on the delivery route. The borrow pits will be used for a relatively short period of time to coincide with the construction period of the development (approximately 14 months), after which they will be restored. The EIA Report has assessed the proposed development against a number of environmental considerations such as hydrology, ecology and peatland and it is considered that impacts on such features could be appropriately mitigated, with such mitigation secured by conditions as necessary. Conditions would be attached, if Scottish Ministers grant consent, to control blasting and ensure the acceptable restoration of the borrow pits is achieved. Subject to appropriate conditions, the proposed development would accord with Policy MIN SUP2.

Policy MIN SS1: Minerals Overarching Policy

- 244.** *All development proposals will require to meet the following criteria in so far as they are relevant, or otherwise demonstrate how they would contribute to sustainable development in the context of the relevant policies of the Minerals Local Development Plan and Scottish Planning Policy, so that they would outweigh any lack of consistency with the relevant criteria. Some of the key relevant criteria include, amongst others:*
- (i) *Comply with the provisions and principles of the MLDP vision and spatial strategy, all relevant MLDP policies and LDP policies, associated supplementary guidance and non-statutory guidance and any relevant provisions from Annex 1: Required information for proposals for new mineral extraction sites and extensions to existing mineral extraction sites;*
 - (iv) *Ensure that they conserve and enhance the character, appearance and amenity of the rural area, communities and individual properties;*
 - (x) *Ensure that there are no unacceptable impacts on the landscape character or tourism offer of the area.*
- 245.** As discussed previously in this report, the proposed development is considered to accord with the relevant policies of the MLDP which, given the nature of the proposal, are limited in number as it is not specifically a minerals development. The MLDP vision is that *East Ayrshire's minerals supply will be fulfilled through a responsible and justified approach to extraction with appropriate progressive restoration and aftercare. Our former minerals sites will be restored or reused resulting in a sustainable environmental, economic and social legacy, contributing to the wider regeneration and enhancement of East Ayrshire's landscape and environment.* There is limited relevance of the proposed development towards this vision, particularly as mineral extraction forms only a small component of the overall development.

Nevertheless, restoration and aftercare will be a requirement of any borrow pit excavations and can be secured by appropriate conditions.

- 246.** The Spatial Strategy includes three principles covering restoration and placemaking, extraction of resources, and strategic woodland creation. Delivery and implementation of the Spatial Strategy is fundamental to ensuring a responsible approach to minerals extraction and to support positive restoration and regeneration. This includes (where relevant to the proposed development): Ensuring that through the planning process, all development is appropriately planned and assessed, in accordance with the policies of the MLDP and incorporating robust restoration proposals.
- 247.** There is limited relevance to the proposed development, however it has been assessed against those limited policies of the MLPD which are relevant. There would be a requirement for appropriate decommissioning of the development and restoration of the site upon expiry of the operational period of the wind farm (or earlier if appropriate) which is proposed to be 50 years. This is not considered to be in contravention of the Spatial Strategy. The strategies and policies of the MLDP set out in detail how the Spatial Strategy will be delivered, so those MLDP policies assessed above are of most relevance to the consideration of the proposed development.
- 248.** The findings of the assessment are that the proposed development would generally comply with the most relevant policies. Although the wind farm would result in significant adverse landscape and visual impacts, none of these impacts are considered on balance to be unacceptably adverse. Assessment against the relevant LDP policies has been set out previously in this report. The assessment against all relevant LDP policies indicated the proposal complied with those policies (subject to conditions in some cases) and therefore, would satisfy the terms of criterion (i) of Policy MIN SS1. Given the above assessment the proposed development is considered overall to accord with Policy MIN SS1.
- 249.** To summarise the findings of the detailed assessment against the relevant policies of the Minerals Local Development Plan, the proposed development is considered to accord with **Policy MIN SS2: Minerals Restoration and Placemaking; Policy MIN SS3: Coalfields Communities Landscape Partnership; Policy MIN SUP2: Borrow Pits, and Policy MIN SS1: Minerals Overarching Policy.**

Assessment against material considerations

- 250.** The following are material considerations considered relevant to the appraisal of this application:

National and Scottish Government Energy Policy

- 251.** The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 sets out the Scottish Government's key commitments in terms of environmental legislation promoting reductions in greenhouse gas emissions. Part 1 of this Act forms the statutory framework for reducing greenhouse gas emissions in Scotland by setting interim targets of a 56% reduction in greenhouse gas emissions by 2020 and a 100% reduction in greenhouse gas emissions by 2045 from baseline (1990) levels.
- 252.** The Scottish Government's Renewable Electricity Generation Policy statement (REGPS) June 2013, sets out the Scottish Government's plans for renewable energy generation and fossil fuel thermal generation in future electricity mixes. The EGPS highlighted the Scottish Government's revised target for delivering the equivalent of

at least 100% of gross electricity consumption from renewables by 2020. The EPGs confirms that target does not mean Scotland will be 100% dependent on renewables generation, rather that renewables will form part of a wider, balanced electricity mix, with thermal generation continuing to play an important role.

- 253.** The Scottish Government Chief Planner wrote to Scottish Heads of Planning, on 11 November 2015, to, “*re-emphasise that the Scottish Government’s Scottish Planning Policy (2014) and Electricity Generation Policy Statement (2013) set out the Scottish Government’s current position on onshore wind farms and that this remains the case,*” and that the target of 100% gross electricity consumption from renewables is not a cap on supporting such developments, including onshore wind, once the target has been reached. They advise that decisions should be informed by relevant development plan policies, themselves informed by Scottish Planning Policy.
- 254.** In December 2017, the Scottish Government published the Scottish Energy Strategy and Onshore Wind Policy Statement. The Scottish Energy Strategy (SES) sets out a 2050 vision for energy in Scotland and is intended to support the achievement of long-term climate change targets and address the impact of poor energy provision. The Strategy promotes a ‘whole system view’ which intends to broaden the Scottish Government’s focus to include heat, transport, electricity and energy efficiency to create an integrated approach.
- 255.** The SES does not provide certainty about how a future energy system might evolve, however it is clear, that in order to achieve climate change goals, Scotland needs to build on the progress made to date in decarbonising electricity production and to see associated progress in the decarbonisation of heat and transport whilst maintaining affordable, secure and reliable supplies.
- 256.** Although the SES does not give any certainty over the future energy systems, it does set out two targets for the Scottish energy system by 2030: The equivalent of 50% of the energy for Scotland’s heat, transport and electricity consumption to be supplied from renewable sources, and an increase by 30% in the productivity of energy use across the Scottish economy. The SES is a high-level document, though it clearly offers continued support for a range of forms of renewable energy generation in order to meet climate change targets.
- 257.** In January 2023 the Scottish Government published the Draft Energy Strategy and Just Transition Plan for a period of consultation. The Draft Energy Strategy sets out the Scottish Government’s aim of delivering an energy system which meets the challenges of Scotland becoming a net zero nation by 2045, supplying a safe and secure energy supply for all, generates economic opportunities and builds a just transition away from oil and gas to the net zero energy system. The draft sets out key ambitions, including: more than 20 GW of additional renewable electricity both on- and offshore by 2030; provision of 5 GW or the equivalent of 15% of Scotland’s current energy needs by 2030 from hydrogen and 25 GW of hydrogen production capacity by 2045; increased contributions from solar, hydro and marine energy to the energy mix; a just transition by maintaining or increasing employment in Scotland’s energy production sector against a decline in North Sea production, and maximising the use of components manufactured in Scotland in the energy transition.
- 258.** The Onshore Wind Policy Statement (OWPS) was published in December 2022, replacing the previous version first published in 2017, and reaffirms the Scottish Government’s continued support for onshore wind energy development, setting out a new ambition to deploy a minimum installed capacity of 20GW of onshore wind in Scotland by 2030. The 2022 OWPS continues to highlight the need to ensure the

right balance is struck in balancing competing land uses, environmental impacts, and the net zero ambitions. As is enshrined in previous energy policy documents – onshore wind is supported in the right places, not at any cost, with particular need now to consider the current nature crisis. Achieving appropriate environmental protection means that the relevant planning and consenting processes must remain aligned with the policy context and desired outcomes.

- 259.** Appropriately sited onshore wind farms will continue to receive Scottish Government support to achieve the targets set by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the SES at the lowest cost but it is noted that the Scottish Government does not support such development at any cost.
- 260.** National energy policy in Scotland, through the planning framework, indicates that the aim of national planning policy is to develop Scotland’s renewable energy potential whilst safeguarding the environment and communities.
- 261.** The proposed development would go some way to meeting Scotland’s renewable energy generation targets whilst reducing greenhouse gases and therefore, if it is found that the proposed development is acceptable when assessed against all other relevant policies, it would be supported through the Scottish Government’s National Energy Policy.

East Ayrshire Council Supplementary Guidance: Planning for Wind Energy

- 262.** On the basis of the level of demand for wind energy developments in East Ayrshire, the need for a robust and clear policy approach for wind energy is a fundamental element of the East Ayrshire Local Development Plan (2017). In line with what was the requirements of SPP which was in force (though is now superseded with the adoption of NPF4) when preparing the Supplementary Guidance, the Supplementary Guidance: Planning for Wind Energy (SG:PWE) sets out the Council’s approach to wind energy development and provides further details on the criteria which all medium and large-scale wind energy proposals will be assessed, underpinning Policy RE3 of the Local Development Plan.
- 263.** Given the context of the Scottish Energy Strategy and its 2030 target of 50% of Scotland’s energy consumption being met by renewable energy, the Council’s SG:PWE notes the expectation, at paragraph 3.3.7, *“that all local authorities adopt a positive approach to renewable energy and support proposals that can help contribute to the national targets without resulting in unacceptable adverse impacts.”* This Supplementary Guidance sets out the Council’s position, in section 1.3 that, *“Further wind energy developments will be supported where they can be accommodated in appropriate locations, assessed as acceptable against the Local Development Plan and material considerations.”*
- 264.** The topics covered by SG:PWE provide further information or clarity on those policies within the LDP, relevant to wind energy proposals, namely Policy RE3. Given the detailed assessment of the proposed development against the LDP policies already detailed previously in this report, this will not be repeated here with respect of the Supplementary Guidance.
- 265.** Paragraph 3.1.1 Landscape and Visual Impacts (within SG:PWE) highlights the need for the Applicant to be able to demonstrate how they have responded to the key sensitivities of the landscape area in which their development is proposed in their site selection and design process. The Supplementary Guidance also confirms the status

of the East Ayrshire Landscape Wind Capacity Study (now updated in 2018) as a material consideration to help assess applications for all wind energy development. For the reasons set out in full, elsewhere within this report, the proposed development is considered to result in localised significant adverse landscape and visual impacts, including cumulatively, however taking into account the wider policy framework within which the proposed development requires to be considered, not sufficiently adverse as would be considered to be unacceptable.

- 266.** SG:PWE notes that the safety of air travel is considered to be of paramount importance in the assessment of applications for wind energy developments. With regards to aviation, NATS and Glasgow Prestwick Airport have objected to the proposed development in their consultation responses to the Scottish Government on the basis of adverse impacts on aviation safeguarding. As Scottish Ministers will determine this application, not the Council, then it will be for them to consider aviation safeguarding impacts and measures to resolve the current objections, if possible.

East Ayrshire Landscape Wind Capacity Study 2018 (EALWCS)

- 267.** The EALWCS is a study to inform strategic planning for wind energy development and to provide guidance on the appraisal of individual wind energy proposals. It provides a sensitivity assessment related to landscape character and visual amenity and offers guidance on the constraints and opportunities for wind energy development within the different landscape character types.
- 268.** Based on the landscape character types within the EALWCS, the proposed development would be predominantly located in LCT 17b: Foothills West of the Doon Valley, although limited extents of the site would be located within LCT 10: Upland River Valley (though this is limited to the site access and a section of access track before this extends into LCT 17b where all other infrastructure would be located, with the exception of that which is located within South Ayrshire Council). This section of the report will therefore primarily focus consideration on LCT 17b, providing a summary of the key findings of the EALWCS in respect of this LCT and providing a summary of the Planning Authority's findings in respect of the proposed development, bearing in mind the more detailed assessment of landscape and visual impacts has taken place elsewhere within this report.
- 269.** With regards to LCT 17b, the EALWCS states (p.87), *“The landform of these uplands is generally simpler to the north, comprising a lower, gently undulating plateau with indistinct rounded hills and shallow basins which are largely masked by forestry. More pronounced hills lie on the outer fringes of the southern part of these foothills however and these form ‘landmark’ features seen from the adjacent well-settled valleys of the Girvan Water and Doon Valley. Land cover is simple, with coniferous forestry dominating the northern plateau and heather and grass moorland and enclosed pastures on outward-facing hill slopes on the more open hills to the south....This landscape is very sparsely settled although the B741 is aligned through the hills and there are popular hill walks to Auchenroy Hill and the Craigengowan Monument on the periphery of these uplands.”*
- 270.** The EALWCS sets out the following in respect of the sensitivity of this LCT on page 87, *“Although the scale and generally simple landform and land cover of these uplands could relate in principle to some larger turbine typologies, the limited extent of these uplands increases sensitivity as they lie relatively close to settled valleys and hills popular with walkers. Potential cumulative effects are also a key constraint given the extent of operational and recently consented wind farms in nearby upland areas.*

There would be a **High** sensitivity to the very large typology (turbines >130m) and a **High-medium** sensitivity to the large typology (turbines 70-130m).”

271. The potential cumulative issues and constraints are set out on pages 87-88 of the EALWCS and some of these include:-

Cumulative issues:

- Inter-visibility between larger turbines which are more likely to be located in this upland landscape character type and smaller turbines (<50m) sited in the adjacent more settled Upland River Valley (10) and Middle Dale (12).
- Dominant effects on the Doon Valley, including on the setting of settlements such as Dalmellington and Bellsbank, that would arise if wind farm development was located in this character type but also in the *Foothills with Forest and Opencast Mining* (17a) and the *Southern Uplands with Forestry* (20c) character types and prominent on containing skylines.

Constraints:

- Potential effects on the setting of designed landscapes sited within the adjacent Middle Dale (12) and the Upland River Valley (10) including the Inventory listed Craigengillan and Blairquhan.
- Potential effects on the setting of settlements such as Dalmellington, Bellsbank, Patna and Straiton sited within the adjacent Doon and Girvan Valleys.
- The narrowness and consequent high visibility of these foothills which increases sensitivity in terms of potential effects on adjacent well-settled valleys.
- Potential effects of lighting of turbines >150m high on the Rugged Uplands, Lochs and Forest (21) which has a strong sense of wildness and on the Dark Skies Park.

272. The EALWCS also highlights some potential opportunities within this LCT where it may be possible to accommodate turbines, noting on page 88, “*The simpler, less visually prominent densely forested lower hills and shallow basins to the north which may provide opportunities to accommodate smaller turbines to reduce effects on adjacent landscapes and on the settings of designed landscapes and settlements....*” The EALWCS concludes **no scope** has been identified for the very large and large typology turbines (turbines >70m in height) to be accommodated within this LCT.

273. As set out previously, the detailed assessment of landscape and visual impacts associated with the proposed Scienteuch wind farm has been discussed in detail elsewhere within this report. The proposed development tends to fail to account for the constraints and opportunities of this landscape.

274. The turbines would be located on the foothills, prominently positioned and highly visible in the adjacent settled Doon Valley, whilst the requirement for visible aviation safety lighting will increase visual impacts which have been raised as a concern regarding the Dark Sky Park, with the Scottish Dark Sky Observatory currently objecting to the proposed development in its consultation response to the Scottish Government.

275. Taking account of the EALWCS guidance and of possible mitigation for aviation lighting and other relevant considerations, the proposed development is not generally considered to comply with this guidance to any meaningful extent.

Ironside Farrar Ltd (IFL) – Landscape Assessment

276. The Council has secured the services of Ironside Farrar Ltd to assess the landscape and visual impact section of the Applicant's submitted Environmental Impact Assessment Report. The purpose of this assessment is to determine the overall adequacy of the Applicant's assessment, whether any conclusions reached are reasonable and to highlight any potential issues relating to the overall acceptability of the development from a landscape and visual impact perspective. The overall conclusions of Ironside Farrar in relation to the proposed development are:

"The proposed development would be located in the Foothills with Forest West of Doon Valley LCT overlooking the relatively sensitive landscapes of the Doon Valley in East Ayrshire and the Girvan Water valley in South Ayrshire. The landscape qualities of both are recognised through local landscape designation.

It is located in the same area as the previous Keirs Hill wind farm s36 application for a greater number of smaller turbines which was objected to by East Ayrshire Council and dismissed following a public inquiry.

Although in the same location, the proposed wind farm has been designed to address the effects considered by the inquiry reporter to be unacceptable. Comparative wirelines indicate that from key viewpoints the proposed wind farm occupies a lesser horizontal field of view and fewer turbines are visible.

Detailed review of the landscape and visual effects nevertheless indicates the proposed wind farm would have a similar range of significant landscape and visual effects to the Keirs Hill proposals.

Furthermore, the potential significant cumulative landscape and visual effects would be similar, or potentially greater due to the gradually increasing baseline.

An analysis of the Keirs Hill decision indicates the key landscape reasons for rejection of this proposal are:

- *While the site could be considered suitable for a wind energy development, its wider setting would be sensitive because of its location between the Doon and Girvan Valleys and it is close to hills south of the B741 which offer fine views to the north.*
- *The plateau on which the site sits is of relatively low elevation compared with the valleys and the turbines would be out of scale and have an adverse landscape impact.*
- *The turbine height and location means they would have an unacceptable impact on a number of properties in the Doon Valley, especially at Waterside and Keirs Hill Cottage.*
- *There would be an adverse cumulative impact with Dersalloch wind farm.*

We conclude that, given the location and size of the proposed turbines and the significant effects assessed by the applicant and by ourselves, these issues are not fundamentally addressed by the current Scienteuch proposals."

277. The findings of the Council's independent consultants are considered for the most part to be more robust than the findings detailed in the EIA Report. Where Ironside Farrar have identified a greater extent of significant impacts, these findings have largely been adopted by the Planning Authority as being reasonable and more accurate than that of the Applicant.

Local Development Plan 2 (LDP2)

278. LDP2 was under examination by Scottish Ministers who subsequently sent their Examination Report to the Council on 20 December 2023. The Council agreed on 22 February 2024 to proceed to adopt LDP2 as modified, with the formal adoption anticipated to take place in mid-April 2024. Once LDP2 is adopted it will replace the current EALDP and MLDP and will form part of the East Ayrshire Development Plan alongside NPF4. In the meantime, until formal adoption, LDP2 would be a significant material consideration and would hold greater weight than the existing EALDP. LDP2 has a range of policies covering various matters, including those in relation to renewable energy development. Some of the most relevant LDP2 policies to the proposed development are as follows:

- Policy SS1: Climate Change;
- Policy SS2: Overarching Policy;
- Policy HE3: Scheduled Monuments, Historic Battlefields and other Archaeological and Historic Environment Assets;
- Policy HE4: Gardens and Designed Landscapes;
- Policy NE1: Protecting and Enhancing Landscape and Features;
- Policy NE3: Local Landscape Area;
- Policy RE1: Renewable Energy, and
- Policy FIN1: Financial Guarantees.

279. The provisions of the above policies are much the same as in the existing EALDP policies or the more recent NPF4 policies and the matters to which they relate have been considered in detail previously in respect of the assessment against the respective EALDP and NPF4 policies. Much the same conclusions can be reached regarding the proposed development's compliance or otherwise with these policies. As such, it is considered the proposed development would broadly align with LDP2 and could draw general support from that document.

Planning History

280. The most relevant case in terms of planning history is:

- 13/0002/S36 – Consultation under Section 36 for the Construction of a 17 turbine wind farm and associated infrastructure.

281. This was the previous Keirs Hill wind farm proposal which was refused by Scottish Ministers following a public local inquiry after the Council objected to that scheme. This is only of relevance in the sense that there was a previous application for a large scale wind farm on this site which, for various reasons, was refused, and the Applicant's in this case for the Scienteuch proposal have sought to address the reasons for refusal of the previous Keirs Hill wind farm proposal.

Consultation Responses

- 282.** The Planning Authority has consulted a number of internal Council departments, external agencies and community councils. None of the bodies responding to the consultation by the Council have raised any objections to the proposed development, with appropriate conditions being able to secure necessary mitigation.
- 283.** The consultee responses received by the Scottish Government consultees have indicated that subject to appropriate mitigation, secured by conditions, most consultees do not object. There are exceptions, notably NATS and Glasgow Prestwick Airport but also the Scottish Dark Sky Observatory. Given the matters raised in the objections from these consultees relate to matters out with the expertise of the Council, then it will be for Scottish Ministers as the determining authority to consider the matters raised and what weight they attach to these in their consideration and determination of the application.

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

- 284.** The reports mentioned above to Council and Cabinet collectively set out an approach for the submission, agreement, implementation and monitoring of financial guarantees that are required in respect of the decommissioning, restoration, aftercare and mitigation inter alia electricity energy infrastructure. The Applicant has not to date provided the necessary information or an estimation of what they consider to be the likely costs of undertaking decommissioning, restoration and aftercare on the site. As such the Council's independent consultants have not been able to undertake a review or make any recommendation to the Council as to what the associated costs of such works would be. Such information would be expected to be submitted in due course, through a condition on any consent, if granted, and if not prior to that point.
- 285.** Whilst there has been no assessment or agreement of the costs associated with decommissioning, restoration and aftercare, it is welcomed that the Applicant has agreed to enter into a Section 75 legal agreement with the Council to secure the required financial guarantee. This should be in place prior to the grant of any consent by the Scottish Ministers, or agreement, to the satisfaction of the Planning Authority, of another arrangement to secure a legal obligation, to ensure that these matters are properly secured.

Heads of Planning Scotland Energy and Resources sub-committee: Position statement on the operation of financial mechanisms to secure decommissioning, restoration and aftercare of development sites (October 2018)

- 286.** This document was produced by a working group and contributors drawn from Scottish planning authorities, the Scottish Government and SEPA. The document incorporates some similar advice to the Planning Authority reports mentioned above but goes further, seeking to identify the best financial tools, establish a template for the assessment of costs and to establish good practice for the review of financial guarantees and to establish standards for compliance and monitoring. Of particular note is the position that a Section 75 legal agreement is the preferred method of securing a financial guarantee. Additionally, however, it was agreed that planning conditions can also be used to require the submission of a financial guarantee. Furthermore the importance of the financial guarantee being in place before the

development can commence, and that it is in force for the lifetime of the development, is also set out.

- 287.** The Position Statement also notes it is critical that the quantum of the financial guarantee is sufficient throughout the lifetime of the development to secure the decommissioning of the development and restoration of the site. Such assessments are to be undertaken by independent professionals and planning conditions should ensure that such independent professional advice is available, at the Developer's expense, for the initial assessment and subsequent reviews. Furthermore the Position Statement confirms that the quantum is required to reflect the costs of the Local Authority carrying out the works rather than the developer, and appropriate project management costs be included. The Planning Authority's approach is reflective of the Position Statement and a legal agreement and appropriate planning conditions would be used to secure the required financial guarantee should consent be granted.

Implications

Implications	Yes	No	Paragraph number in report
1. Policy/Strategic Planning	X		47 – 249 and 288
2. Governance	X		289
3. Human Resources		X	
4. Equality and Fairer Scotland Duty		X	
5. Financial	X		290 – 294
6. Risk	X		295
7. Community Wealth Building		X	
8. Net zero		X	

Policy/Strategic Planning implications

- 288.** There are a number of Policy and Strategic Planning implications associated with coming to a view on this consultation request from the Scottish Government. The primary documents are NPF4, EALDP and MLDP and the detailed discussion of these policies is set out previously in this report from paragraph 47 to 249 and the conclusions regarding those policies of relevance from those documents is detailed therein.

Governance implications

- 289.** With regards to legal issues, the matters set out in bullet points below should be addressed within a Section 75 legal agreement under the 1997 Act, and through appropriate planning conditions. The Heads of Agreement for the Planning Obligation (Section 75 of the 1997 Act) to be concluded, as set out below, have been agreed in principle between the Council and the Applicant. It will be for Scottish Ministers to determine whether consent is issued and thereafter the timing of this. The Council's desire to secure such matters through legal agreement and for that agreement to be concluded before consent is issued should be made clear to Scottish Ministers.

- An independent Planning Monitoring Officer (PMO) to be appointed by the Planning Authority, with the cost of providing this service being met by the developer. Such appointment would address suspensive and ongoing environmental planning advice, on site monitoring and reporting during the

construction period and any restoration period following construction and during the decommissioning and restoration period, including aftercare.

- The provision of a suitable decommissioning, restoration and aftercare guarantee by the developer, agreed by the Planning Authority as being sufficient and acceptable in value and risk, to secure the decommissioning of the development and the restoration and aftercare of the site, that appropriate review periods and mechanisms to alter the guarantee are agreed and that the Council's costs in reviewing the value are paid by the developer.

Financial implications

- 290.** If the Council is minded to raise no objection to the proposed development there are financial implications for the Council in negotiating and concluding a Section 75 legal agreement as well as the detail of the planning conditions. This will primarily relate to Council officer time but may also involve the further input of the Council's consultants for decommissioning and restoration matters in the pursuit of a mutually agreeable financial guarantee quantum.
- 291.** There are also financial implications for the Council in relation to the financial guarantee to ensure that decommissioning and restoration of the development takes place.
- 292.** In accordance with the Council's revised arrangements for the consideration of Financial Guarantees relative to certain types of development, Planning, Finance and Legal Services have been consulted and responses received noted that further opportunities to consider the proposed financial guarantee, including the quantum, in detail will be provided through the process of dealing with the Section 75 legal agreement and submissions to satisfy the conditions of any consent, which will ensure a financial guarantee of value and risk and in terms acceptable to the Council can be secured.
- 293.** In compliance with the Council's Cabinet Report on Decommissioning, Restoration, Aftercare and Mitigation of Financial Guarantees dated 21 May 2014, the proposal will require to comply with the terms of this report in relation to the submission, agreement, implementation and monitoring of financial guarantees. It will also be expected to be in accordance with the assessment of costs from Ironside Farrar (and allowing for the effects of inflation and the additional of costs for other reasonable matters not costed by Ironside Farrar), subject to any agreed modifications which might be justifiable on cause shown by the Applicant during further negotiations at the appropriate stage.
- 294.** There are also potential financial implications for the Council coming to a view on this application. Should the Planning Committee be minded to formally object to the proposed Scienteuch wind farm development, this will trigger a Public Local Inquiry in terms of Section 62 and Schedule 8 of the Electricity Act 1989 unless the Council withdraws its objection. The financial implications associated with such a position include the potential costs to be incurred in engaging expert external advice, support or representation including expert witnesses to give evidence on the Council's behalf at the Inquiry. Furthermore if the Council is considered to have acted unreasonably in its objection to the proposed development, a claim for an award of expenses could be made by the Applicant.

Risk implications

- 295.** There are potential financial implications for the Council in coming to a view on this application. Should the Planning Committee be minded to formally object to the proposed Scienteuch wind farm development this will trigger a Public Local Inquiry in terms of Section 62 and Schedule 8 of the Electricity Act 1989 unless the Council withdraws its objection.

Conclusions

- 296.** The approach to the assessment and recommendations within this report reflect the fact that the Council is a consultee under The Electricity Act 1989 and that Scottish Ministers are the determining authority.
- 297.** In approaching this assessment it is considered to be reasonable to primarily assess the development against the Council's Development Plan, being the local planning policy framework relevant to land use decisions for this Council area. As this proposed development is presented under The Electricity Act 1989, Section 25 of the Town and Country Planning (Scotland) Act 1997 (the status of the development plan) does not apply. As such, the development plan is a significant material consideration, amongst others, in the assessment of Section 36 energy developments. Other matters considered material to the Council's view have been taken into account.
- 298.** In terms of the East Ayrshire Development Plan, Policy 11 of NPF4 is one of the primary policies for the assessment of the development type proposed. Wind farms have the potential to impact on a wide range of features which is evident from the above assessment. The turbines proposed as part of the Scienteuch wind farm are very large, at 180m and 200m in height. With that, significant adverse landscape and visual impacts are inevitable. In this case, the location of the proposed development is such that significant adverse landscape and visual impacts would arise, exerting an impact on the upper Doon Valley. Mitigation, particularly the Applicant's proposed use of aviation activated lighting, would be capable of addressing night time visible lighting impacts to a reasonable extent though this is likely to remain an eye catching feature. The setting of cultural heritage assets would also be impacted, primarily through general visual impacts being experienced at and around the heritage features, though it is noted that relevant bodies have not raised any objections to the proposed development with respect to impacts on such heritage features.
- 299.** Residential amenity impacts would be significantly adverse, particularly on the closest property, High Keirs, and would be experienced from properties within settlements in much the same way as more general visual impacts from these settlements would be experienced. Despite some significant adverse impacts at High Keirs, these are not considered to exceed the threshold of residential visual amenity which is a result of the steps taken by the Applicant to address the previous reasons for refusal of the Keirs Hill wind farm. Other impacts such as shadow flicker and noise, including from the proposed BESS, can be mitigated through appropriate conditions to operate within set limits.
- 300.** Biodiversity matters such as forestry, peatlands, hydrology and ecology would face impacts, including losses of peatland and forestry, however subject to appropriate management and compensatory habitat management and planting to compensate for any losses, alongside compliance with appropriate construction techniques, then such impacts would not be unacceptable. Similarly for ecology, subject to compliance with protected species plans, including bird protection plans and also specific bat monitoring schemes, ecological impacts could be mitigated. There remains a

question mark over whether or not the Applicant has gone far enough with regards to providing significant biodiversity enhancement, as now required under Policy 3 of NPF4. It will ultimately be for Scottish Ministers as determining authority to consider whether more is required from the Applicant before currently proposed mitigation would constitute significant biodiversity enhancement, though if more was required this is likely to be capable of being secured by conditions to deliver meaningful biodiversity enhancement and nature networks across the site. The use of floating tracks on peat greater than 1m in depth and use of existing watercourse crossings would protect hydrological connectivity across the site and water quality and reduce impacts on aquatic life. Water quality monitoring and aquatic biota monitoring could be secured by condition which would ensure these matters are kept under review and any impacts identified and addressed swiftly.

- 301.** The various consultee responses to both the Scottish Government and the limited responses to the Council would suggest that subject to conditions to address a range of different matters, the proposed development would not result in any unacceptable impacts. The exceptions are currently NATS and Glasgow Prestwick Airport whose consultation responses to the Scottish Government are currently objections, alongside the Scottish Dark Sky Observatory with an objection due to lighting impacts. Ultimately, however, Scottish Ministers are the determining authority in this case, so they will have to consider the consultation responses and how they wish to deal with them in coming to any conclusion on the application.
- 302.** The contribution of approximately 54MW (up to 99MW if the Applicant proceeds with the BESS element of the proposed development) of renewable energy towards the renewable energy generation targets would draw strong support from Scottish Government energy policy.
- 303.** There are various relevant policies across the three documents which make up the East Ayrshire Development Plan, with Policies RE1 and RE3 of the EALDP addressing much the same issues as Policy 11 of NPF4, and as set out above, the majority of relevant policies in NPF4, the EALDP and MLDP are considered on balance and subject to conditions in many cases, to be complied with by the proposed development. Exceptions include Policy 7 of NPF4 where the wording of the policy is such that it requires the character and appearance of conservation areas and their settings to be preserved or enhanced, with similar requirements with regards to Scheduled Monuments where significant impacts on their settings are to be avoided. The scale of the proposed turbines is such that the appearance of both scheduled monuments and conservation area in the upper Doon Valley (in and around Waterside) would be affected and although the setting is primarily focused on the immediate environs of those features, the integrity of their settings cannot be said to be completely preserved or enhanced and significant impacts on their settings would be apparent due generally to the visual impact of the turbines. Furthermore, with regards to the EALDP, the proposed development is considered to only be partially compliant with Policy RE3 and contrary to Policy ENV8, primarily due to significant adverse landscape and visual impacts. Policy 3 of NPF4 is currently considered to only be partially complied with, though Scottish Ministers may ultimately consider significant biodiversity enhancement would result from the currently proposed mitigation, though it is understood that biodiversity enhancement is expected to go beyond standard mitigation of impacts resulting from a development, particularly of the scale of development proposed.

- 304.** Consideration must be had of the history of this site and the previous refusal of the Keirs Hill wind farm due to significant adverse, unacceptable landscape and visual impacts and impacts on cultural heritage assets due to the scale of turbines in that case (at 149.9m high) and the Applicant's intention through the Scienteuch wind farm proposal to address the reasons for refusal of the previous wind farm scheme. The Planning Authority has set out its view on such impacts in detail throughout the report. It is clear that the current proposal has gone some way to address the reasons for refusal of the previous Keirs Hill wind farm, though with the increased scale of turbines now proposed (at 180m and 200m in height) there has only been limited success in addressing all of these reasons. Although reduced in number, the scale, design and layout of turbines currently proposed would result in significant adverse landscape and visual impacts similar to the previous scheme (with the exception of residential visual amenity impacts which would still be significantly adverse, though would not exceed the threshold of residential visual amenity).
- 305.** The Planning Authority considers the proposed turbines would result in significant adverse landscape and visual impacts notably on the upper Doon Valley and associated settlements and heritage assets in this area, particularly in and around Waterside. The Council previously objected to the Keirs Hill wind farm due to similar impacts as would be faced as a result of the proposed Scienteuch wind farm. However, it is particularly important to note that the policy framework has now changed since the Council's previous objection to Keirs Hill. It is noted that the proposed development would be contrary to a number of policies of NPF4 and the EALDP. With regards to heritage impacts, the conflict with Policy 7 is considered to be limited in scope to the visual impact of the turbines seen from and around the heritage features rather than undermining the integrity of the setting of those features and, on balance, when taking account of all other policies and material considerations including consultation responses from Historic Environment Scotland offering no objections, not to be of such magnitude in terms of significance of impact on these features that they would be unacceptable.
- 306.** Similarly, with regards to the significant adverse landscape and visual impacts (including cumulatively) the Planning Authority considers these to be generally localised in nature, affecting the upper Doon Valley and the settlements such as Patna and Waterside particularly, in this part of the district and not more widespread. Bearing in mind the wording of Policy 11 of NPF4 which considers localised significant landscape and visual impacts to be generally acceptable, the proposal does not breach such policy requirements as the main significant landscape and visual effects are no greater than 5km. Further, significant weight can be attached to the development's contribution to renewable energy targets, the consultee responses are largely positive, other material considerations for the most part lend support to the proposed development and many adverse impacts are capable of being mitigated. Despite significant adverse residual landscape and visual impacts, including cumulative landscape and visual impacts, in the round this is not considered sufficiently adverse to warrant objecting to the proposed development. On that basis, subject to conditions and a legal agreement, the Council should offer no objection to the proposed development in its consultation response to the Scottish Government.

Recommendation

- 307. It is recommended that the Council raises no objection to the development subject to:**

- **The conclusion of a Section 75 Legal Agreement between the Applicant and the Council prior to the issue of the Section 36 consent and deemed planning permission by the Scottish Government, or agreement, to the satisfaction of the Planning Authority, of another arrangement to secure a legal obligation, to include those matters listed within the Governance Implications section of the committee report, and**
- **The attachment to the deemed planning permission of planning conditions to address the matters listed below, the detail of which is to be agreed by the Planning Authority in discussion with the Scottish Government and the Applicant.**

Contrary decision notice

308. Should the Committee decide to object to the application contrary to the recommendation of the Chief Governance Officer, the application would not require to be referred to Council as the scheme of delegation does not include provision for this to take place where a view is being sought on a Section 36 consultation.

David Mitchell
Chief Governance Officer

Background Papers:

1. Application documentation including Environmental Impact Assessment Report
2. Statutory Notice and Certificates
3. East Ayrshire Local Development Plan (2017)
4. East Ayrshire Minerals Local Development Plan (2020)
5. National Planning Framework 4
6. East Ayrshire Local Development Plan Supplementary Guidance: Planning for Wind Energy
7. East Ayrshire Local Development Plan Supplementary Guidance: Financial Guarantees
8. East Ayrshire Local Development Plan Non-statutory Planning Guidance: East Ayrshire Landscape Wind Capacity Study (2018)
9. Scottish Government Guidance – Onshore Wind Turbines, May 2014
10. NatureScot Guidance: Assessing the Cumulative Landscape and Visual Impact of Onshore Wind Energy Developments, March 2021
11. NatureScot Guidance: Siting and Designing Wind Farms in the Landscape Version 31, August 2017
12. Accon UK Ltd Noise Assessment
13. BS 5228-1:2009 Code of Practice for noise and vibration control on construction and open sites
14. Ironside Farrar Ltd Scienteuch Wind Farm Audit of LVIA
15. Scottish Forestry: The Scottish Government's Policy Control of Woodland Removal
16. Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments (May 2019)
17. NatureScot Guidance: Decommissioning and Restoration Plans for wind farms Version 2, February

2016

18. Ayrshire and Arran Forestry and Woodland Strategy 2014
19. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
20. Onshore Wind Policy Statement (December 2022)
21. Scottish Energy Strategy: The future of energy in Scotland (December 2017)
22. Draft Energy Strategy and Just Transition Plan (January 2023)
23. The Energy White Paper 2007
24. Scottish Government Electricity Generation Policy Statement 2013
25. Update to the Climate Change Plan 2018-2032 Securing a Green Recovery on a Path to Net Zero
26. East Ayrshire Council Report to Cabinet, 21 May 2014, Independent Review of the Regulation of Opencast Coal Operations in East Ayrshire – The Council’s Response
27. East Ayrshire Council Report to Council, 19 September 2013
28. East Ayrshire Council Report to Cabinet, 24 May 2013
29. Circular 4/1998: Planning Conditions
30. Circular 3/2012: Planning Obligations and Good Neighbour Agreements
31. Heads of Planning Scotland Energy and Resources sub-committee: Position statement on the operation of financial mechanisms to secure decommissioning, restoration and aftercare of development sites (October 2018)
32. CAA Policy and Guidelines on Wind Turbines CAP 764
33. Safety & Airspace Regulation Group Policy Statement ‘Lighting of Onshore Wind Turbine Generators in the United Kingdom with a maximum blade tip height at or in excess of 150m Above Ground Level
34. The Air Navigation Order 2016
35. NatureScot Guidance: Developing with Nature Guidance (Guidance on securing positive effects for biodiversity from local development to support NPF4 policy 3(c))
36. Scottish Government Draft Planning Guidance: Biodiversity (30 November 2023)
37. Consultation Responses

Person to Contact:

Graham Mitchell
 Interim Team Leader
 07919 298026
 Email: graham.mitchell@east-ayrshire.gov.uk

Implementation Officer:

David Wilson
 Interim Operations Manager: Building Standards and Development Management
 07919 293482
 Email: david.wilson@east-ayrshire.gov.uk

East Ayrshire Council
TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997
Application No: 22/0004/S36

Location	Scleunteuch Wind Farm Land To West Of A713 Near Waterside
Nature of Proposal:	Consultation under Section 36 of the Electricity Act 1989 for the construction and operation of a wind farm comprising up to 9 wind turbines of up to 200m in blade tip height and associated infrastructure including site access and access tracks, substation compound and communications mast, borrow pits, hardstands and crane pads, temporary construction compounds and battery energy storage system. Development includes a wind farm generating capacity of up to 54Mw and BESS generating capacity of up to 45Mw
Name and Address of Applicant:	James Cameron, RES Third Floor STV Pacific Quay Glasgow G51 1PQ
Name and Address of Agent	Natural Power The Green House Forrest Estate Darly Castle Douglas Scotland DG7 3XS

Officer's Ref: Graham Mitchell

The attachment of planning conditions to the deemed planning consent to address the following matters:

Road matters:

1. Construction Traffic Management Plan (CTMP). The CTMP shall include full details of the cumulative trip generation and associated percentage impact relative to baseline traffic levels; include a named traffic manager; include details of traffic accidents and proposed safety mitigation; and methodology for the movement of abnormal loads and construction traffic to and from the site and any mitigation measures required on the road network;
2. All turbines to be positioned at a distance from the public road of at least equal to 125% of the overall blade tip height of the turbine;
3. Road construction details for all road layout and access improvements, including the secondary access junction onto the B741;
4. Visibility sightline splays of 4.5m x 215m;
5. Access layout plan for commercial access construction, with a 9m radius provided, and hard surfacing of all new accesses taken off the public road;

6. Applicant shall be responsible for acquisition and maintenance of all land required adjacent to the public road to allow the passage of abnormal loads whose swept path cannot be contained within the existing road widths. Any road widening to be built to the specification provided by the Ayrshire Roads Alliance and retained once works are complete;

7. Structural inspections (before and after construction) for any structures to form the basis of establishing any reinstatement costs for damage due to abnormal loads and/or loading associated with the development of the site, with the Applicant liable for these costs;

8. Condition surveys (including video) of the delivery route of all abnormal and construction traffic, including structural assessments of infrastructure and any remedial and repair works required, costs of which shall be borne by the Applicant;

9. Swept path analysis or abnormal load route on public roads accommodating the largest size of vehicle expected to be used during transportation of turbine components to be submitted for the approval of the Council as Roads Authority;

10. Staff Travel Plan to be submitted to identify measures and initiatives to be implemented to encourage travel to and from the site other than by single car occupancy private car trips. To include management system, monitoring, review and reporting and the duration of the plan;

11. No discharge of water onto the public road and details and specifications of how this is to be achieved shall be submitted for approval by the Council as Planning Authority, in consultation with the Ayrshire Roads Alliance;

12. Abnormal load delivery route to be approved prior to any movement of such loads and any mitigation / accommodation measures detailed and approved;

13. Any additional signage or temporary traffic control measures must be undertaken by a recognised QA traffic management consultant, approved by Transport Scotland;

As requested in the Transport Scotland and Ayrshire Roads Alliance responses to the Scottish Government and Planning Authority respectively, in the interests of road safety.

Decommissioning and restoration:

14. Outline Decommissioning and Restoration Plan (including aftercare);

15. Detailed Decommissioning and Restoration Plan (including aftercare);

16. Financial Guarantee to cover post-construction restoration, decommissioning, restoration and aftercare plus regular reviews and updates of the financial guarantee;

17. Non-operational/redundant turbine removal;

18. Development to be decommissioned, site restored to its original condition or such condition as agreed by the Planning Authority and aftercare undertaken in accordance with the approved Decommissioning and Restoration Plan;

To ensure plans are in place to facilitate decommissioning of the development and restoration of the site whilst ensuring appropriate financial guarantee is in place to implement this should the Applicant fail to do so.

Construction and Environmental Management Plan (CEMP):

19. Site Investigation and Ground Investigation Scheme (to inform the CEMP) detailing all intrusive site and ground investigations, including any tree felling for these works and method statements for carrying out all investigative works, including any mitigation measures required to protect the environment;

20. Detailed site-specific CEMP, taking into account the findings of the site and ground investigations. This will include Construction Method Statements (CMS) and timetabling of works and will incorporate the following matters unless otherwise addressed as standalone documents:

- a. Plans and details of all cut road, and floating tracks on peat greater than 1m in depth and over any areas of blanket bog and Class 1 peat;
- b. Construction/laying of cable trenches and turbine bases;
- c. The construction of crane pads and all foundations and other hardstands;
- d. Details of soil stripping, handling, storage and re-use;
- e. Details of the formation of any temporary construction compound, welfare facilities and associated hardstanding and parking and storage areas for the construction period;
- f. Site Waste Management Plan (WMP);
- g. Details of any water crossings including upgrades required, including design (oversized bottomless arched culverts or traditional style bridges), evidencing compliance with the Controlled Activity Regulations where appropriate;
- h. Qualitative hydrological assessment of all Groundwater Dependent Terrestrial Ecosystems (GWDTEs) at potential risk from the development, including details of measures to reduce and mitigate impacts from all construction elements capable of impacting on groundwater flows and hydrological connectivity, avoiding all GWDTEs wherever possible;
- i. Dust Management Plan (DMP);
- j. Pollution Prevention and Incident Plan (PPIP);
- k. Site drainage plans;
- l. Details of any concrete batching plant onsite;
- m. Construction Noise Management Plan detailing all measure to minimise noise and vibration from construction;
- n. Details of the storage of chemicals and fuels and other materials during construction and sewage disposal;
- o. Details of any temporary site illumination;
- p. Ecological monitoring;
- q. Detailed Construction Method Statements (CMS) for the construction of all elements of the proposed development;
- r. Phasing plan for the construction works;
- s. Post-construction restoration and reinstatement of any blade fingers, support crane pads, working areas, and elements not required for the operational life of the development, and timetabling for this;
- t. Methodology for dealing with any changes required to the CEMP;

To ensure construction and environmental management methods are suitable and incorporate requests from SEPA, ACCON UK Ltd, and other consultees.

Water environment:

21. Private Water Supply (PWS) scheme including risk assessment, monitoring, mitigation (both short term and long term, including replacement where necessary) and contingencies to ensure all PWS retain the quality and quantity of water needed;
22. Water Quality Monitoring Plan (including 12 months pre-construction baseline, during construction, and post-construction);
23. Fish Monitoring Plan including macroinvertebrate surveys and mitigation measures;

To ensure PWS are protected, monitored and appropriate mitigation can be implemented at short notice if necessary, to protect the River Doon catchment and fish and other aquatic life within the watercourses, minimising impacts on the water environment.

Natural heritage:

24. Pre-commencement protected species checks and production of Species Protection Plans (SPP);
25. Pre-commencement bird surveys and production of Bird Protection Plan (BPP), no works during breeding bird season;
26. Habitat Management Plan (HMP) and reporting regime including onsite compensatory planting;
27. Environmental Clerk of Works (ECoW) to be employed on site full time during the construction period and post-construction restoration period, and during the decommissioning, restoration and aftercare period, to ensure all works are being carried out in accordance with the relevant plans and approvals and to advise on ecological matters;
28. Bat mitigation, including feathering of turbine blades and Bat Activity/Mortality Monitoring Protocol to include reviews and updates to bat mitigation if required;
29. Detailed Biodiversity Enhancement Plan to deliver significant biodiversity enhancement and nature networks across the site to ensure it is in a demonstrably better condition than without intervention, including lifetime monitoring and future management of the biodiversity enhancement;

To secure mitigation set out in the EIA Report and as requested by SEPA and NatureScot;

Ground conditions:

30. Peat Management Plan (PMP) detailing the appropriate handling and management, including storage, of peat and enhancement measures and after-use;
31. Access tracks to be floated on peat depths of greater than 1m, on Class 1 peatland, on any areas of GWDTE, and on Wallace Moor/Keirs Hill LNCS;

32. Scheme of intrusive investigations to establish the risk of past coal mining activity, and any remediation works necessary in order to make the site safe and stable for development;

33. Prior to development coming into use, a signed statement or declaration prepared by a suitably qualified person confirming the site is, or has been made, safe and stable for the development shall be submitted for approval;

34. Micrositing restrictions (maximum 100m), including no micrositing into peat of greater depth than the approved location, PWS buffers, no micrositing that would encroach into a location where GWDTE are present, and no movement on turbines east of the approved location or at a higher elevation.

To minimise impacts on peat and to account for ground conditions as requested by SEPA and NatureScot and the Coal Authority.

Archaeology:

35. Programme of archaeological works in accordance with a Written Scheme of Investigation;

36. Fencing off of small enclosure near T9 crane pad (asset 14 as per EIA Report) plus any other mitigation as required by WoSAS;

To mitigate impacts on archaeological remains as requested by WoSAS.

Access:

37. Access Management Plan;

38. Detailed design and delivery of Keirs Glen Trail path;

To ensure details of temporary diversions and management of public access is detailed and implemented throughout the construction period and any operational access measures are in place to mitigate impacts on core paths and rights of way and in the interests of public safety, and to approve the details of the Keirs Glen Trail to be implemented as part of the proposed development.

Forestry:

39. Detailed replanting scheme for the compensation of lost woodland on site, including commercial forestry.

To take account of the local woodland strategy.

Aviation:

40. Conditions to address any requirements of the MOD;

41. Conditions to address any impacts on NATS' interests;

42. Conditions to address any impacts on Glasgow Prestwick Airport;

43. Full details including operational controls and a protocol for evidencing the effectiveness of any mitigation of the visible aviation lighting, including intensity

dimming in clear conditions, angle screening to reduce intensity, and installation of aviation activated lighting whenever possible, ensuring the Planning Authority are able to have confidence in the mitigation and its delivery;

As specified in the EIA Report and in anticipation of any further comments from NATS, Glasgow Prestwick Airport and the MOD.

Amenity impacts:

44. Shadow Flicker Protocol detailing dates and times when shadow flicker can occur and including shutdown of turbines responsible at those times, and investigation procedure for complaints;

To ensure these impacts can be mitigated and any further complaints addressed through amended protocols.

General:

45. Turbine details;

46. Details of any ancillary buildings and construction compound, and BESS;

47. No signage or illumination on any infrastructure, save for those required by law under other legislation, no numbers displayed on turbines;

48. Construction hour restrictions;

49. Complaints procedure and mitigation if it is found the development affects radio or television signals;

50. Planning Monitoring Officer (PMO) to be appointed by the Planning Authority and the costs borne by the Applicant;

To ensure that appropriate mitigation measures are undertaken and to control the details of development in the interests of visual and environmental impact considerations and to ensure compliance with the terms of the consent.

Borrow pits:

51. Restrictions on blasting and detailed method statement to cover details of blasting monitoring locations, equipment to be used, frequency of monitoring, methods to minimise air overpressure, submission of blasting records to the Council;

52. Detailed design and restoration scheme for borrow pits;

To ensure appropriate controls over blasting of borrow pits and to secure the satisfactory restoration of borrow pits on site after construction works have ended.

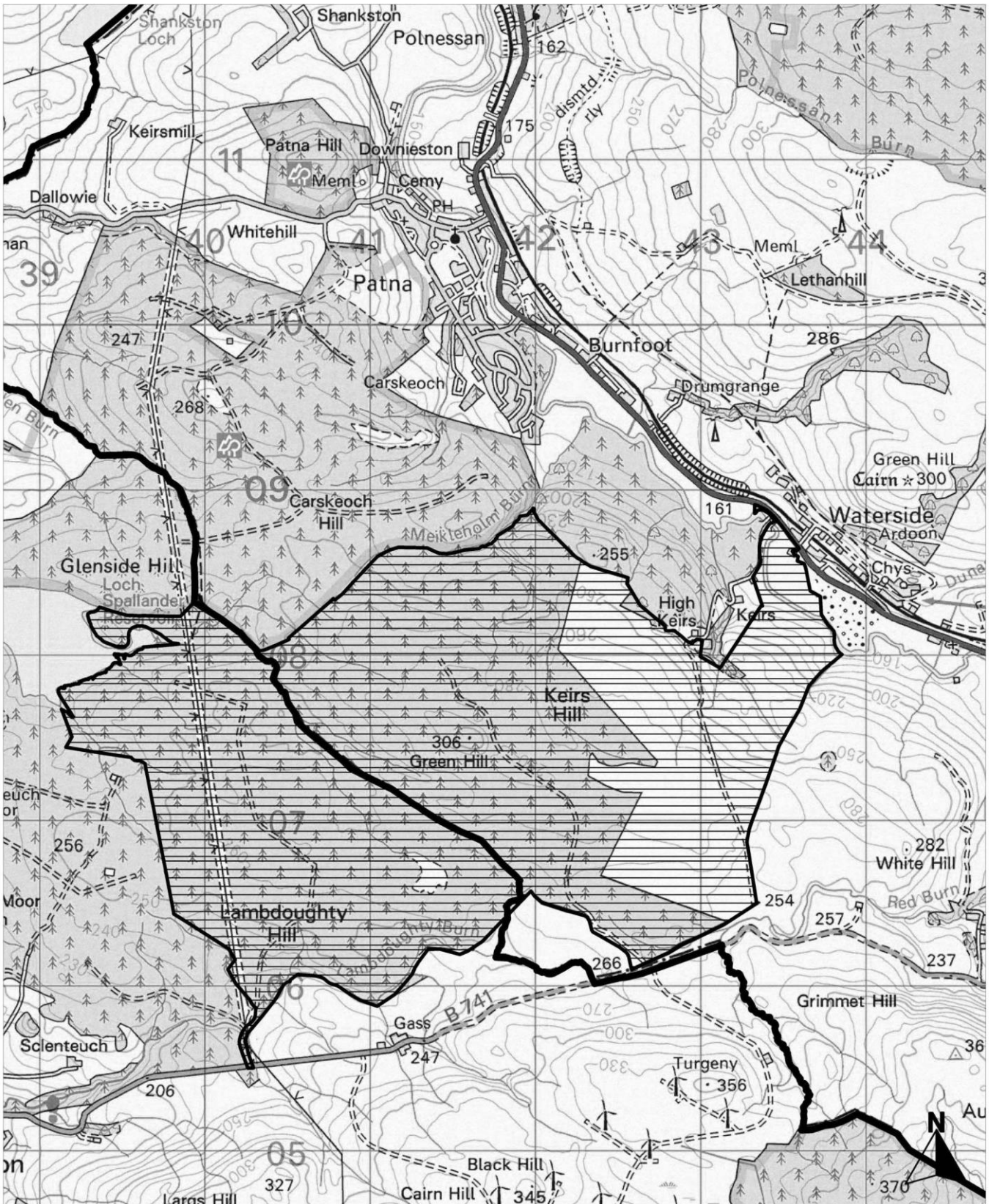
Operational noise:

53. Appropriate wind farm noise limits including noise complaint and investigation and compliance protocols, including amplitude modulation;

54. Appropriate operational protocols to ensure that the BESS can be operated within specified limits and not cause an impact on amenity;

55. Cumulative noise complaint investigation methodology.

To protect residential amenity and to account for comments from ACCON UK Ltd in their consultation response.



Committee Date: 22/03/2024

Application Site



Application No. 22/0004/S36

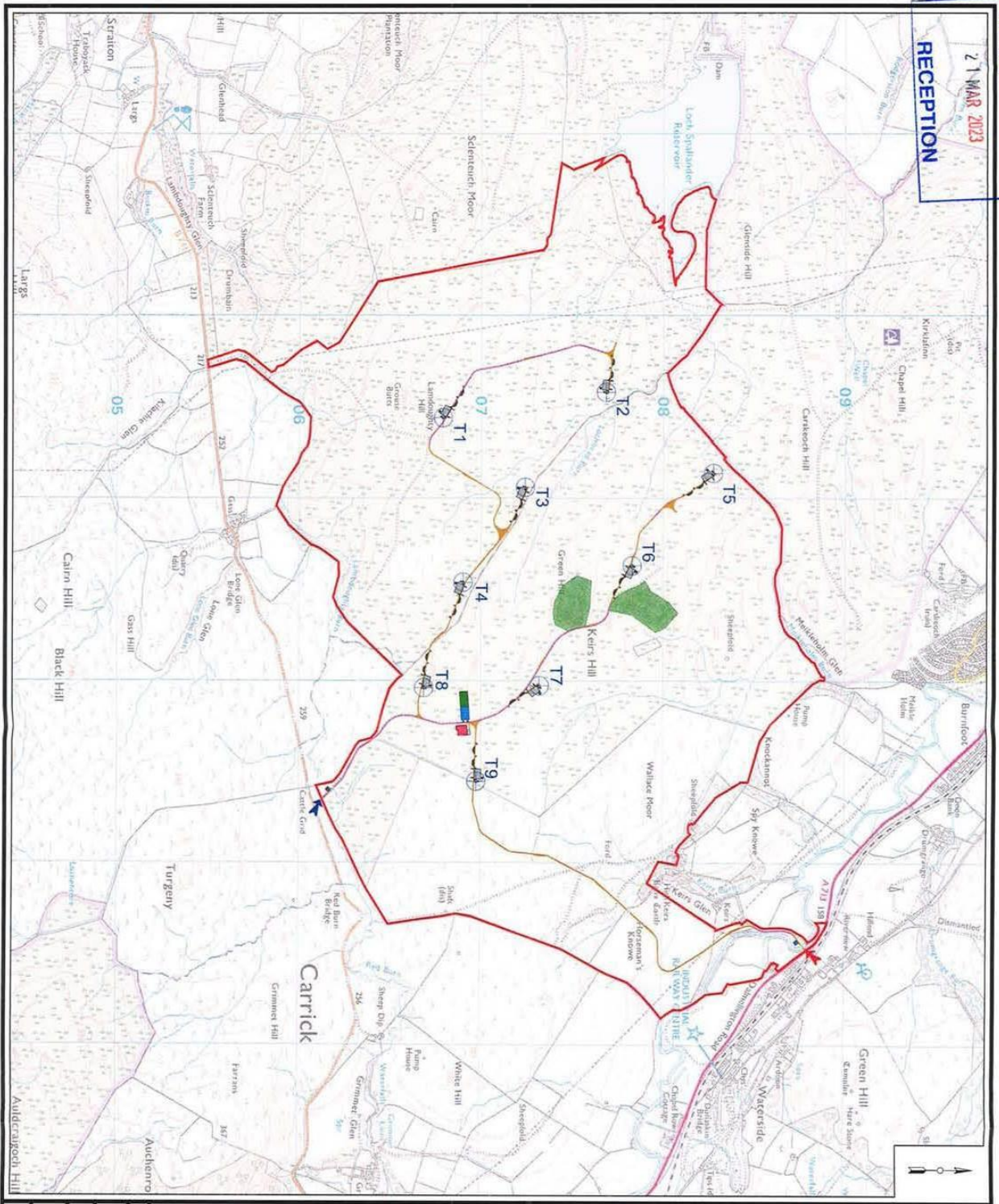
Title/Location Scleteuch Windfarm

Land to West of A713 near Waterside

Planning & Building Standards
 The Opera House
 8 John Finnie Street
 Kilmarnock KA1 1DD
 e-mail :
submittoplanning@east-ayrshire.gov.uk

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21 MAR 2023
RECEPTION



**SCIENTEUCH
WIND FARM
FIGURE 1.3
PROPOSED
DEVELOPMENT**

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2023 LICENSE NUMBER 0100031673.

KEY

- SITE BOUNDARY
- ⊕ WIND TURBINE LOCATION
- UPGRADED SITE TRACKS
- NEW SITE TRACKS
- WATERCOURSE CROSSING
- CRANE HARDSTANDING AREA
- PERMANENT
- TEMPORARY
- TEMPORARY ENABLING WORKS COMPOUND
- ALTERNATIVE TEMPORARY ENABLING WORKS COMPOUND
- TEMPORARY CONSTRUCTION COMPOUND/ BATTERY STORAGE
- BATTERY STORAGE
- CONTROL BUILDING & SUBSTATION COMPOUND WITH PERMANENT HARDSTANDING AREA
- BORROW PIT SEARCH AREA
- SITE ENTRANCE LOCATION
- ALTERNATIVE CONSTRUCTION SITE ENTRANCE LOCATION

PROJECT NO: P20230226
DRAWING NO: 03896-RES-DR-PE-001
SCALE: 1:20,000 @ A3
PAGE 8

**ENVIRONMENTAL IMPACT
ASSESSMENT REPORT 2023**
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