

Report To: The Planning Board

Date: 5 June 2024

Report By: Director, Environment and Regeneration

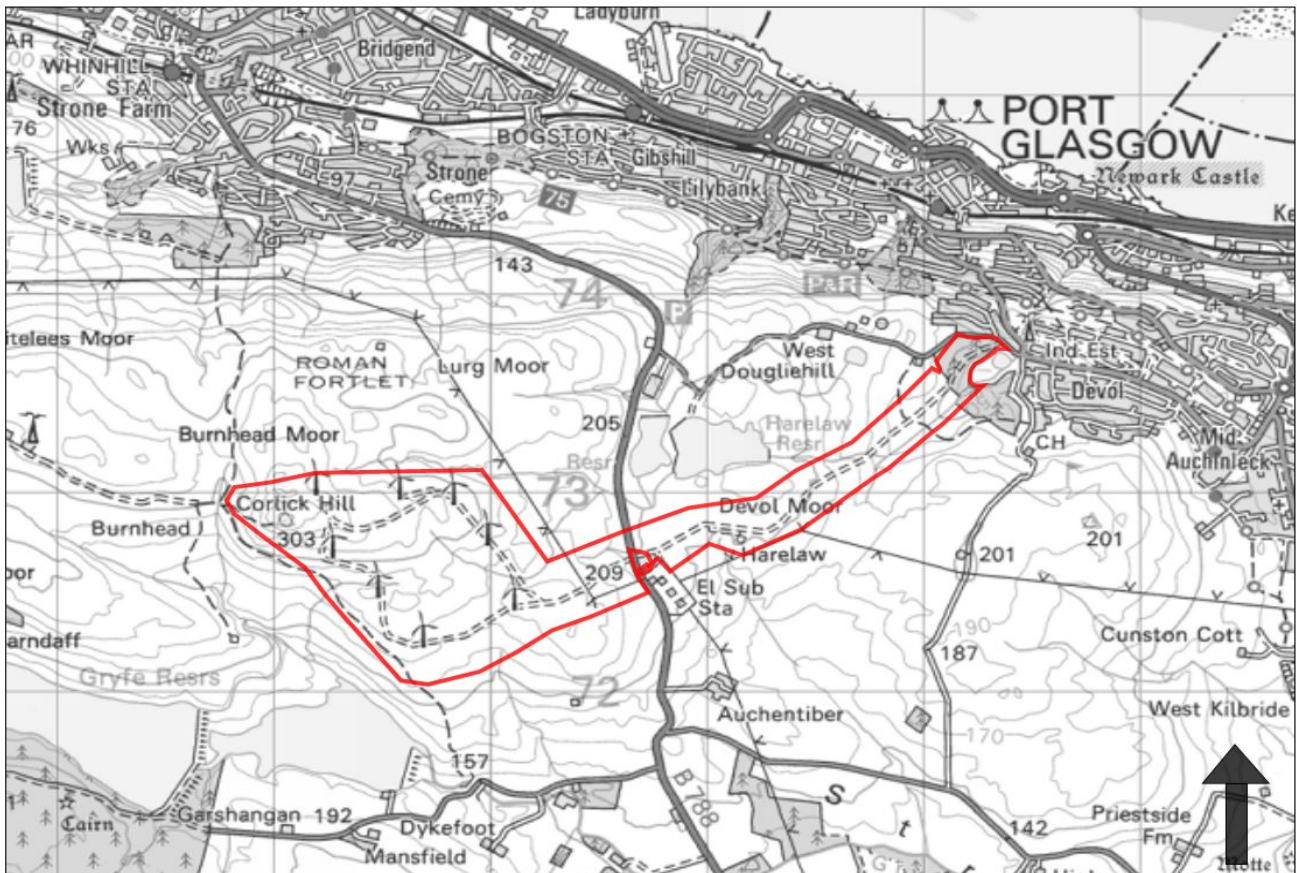
Report No: 23/0236/IC

Major Application Development

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Subject: Erection of 8 wind turbines, construction of access tracks and ancillary development (including crane hardstandings, cabling, transformers, culverts), formation of borrow pit, erection of sub-station and control building, formation of car park and temporary construction compounds (amendment to Condition 2 of planning permission 13/0199/IC granted on appeal by the Scottish Ministers to extend the operational lifespan from 25 years to 50 years) (Section 42 application) at land North and East of Corlick Hill, Greenock



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## SUMMARY

- The amendment sought in the Section 42 application complies with National Planning Framework 4, the adopted 2019 Inverclyde Local Development Plan and the proposed 2021 Inverclyde Local Development Plan.
- There has been one objection on the basis of the application being premature in light of potential changes that may occur in the renewables market.
- The consultation responses present no impediment to the amendment sought in the Section 42 application.
- The recommendation is to GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=RP59FTIML7T00>

## SITE DESCRIPTION

The application relates to the Inverclyde Wind Farm which consists of 8 turbines with associated infrastructure. Each turbine has a hub height of 65 metres and a blade tip height not exceeding 110 metres. Associated development includes hardstanding areas, access tracks which are approximately 5.8km in length, underground cabling, transformers, a site sub-station and control room. The overall site area of the wind farm is approximately 209 hectares, and approximately 2.4 kilometres to the south of Greenock town centre. It is at the edge of the Clyde Muirshiel Regional Park and is open moorland. A number of individual dwellings are scattered around the moorland fringes at distances of 970m to 1100m from the wind farm.

The wind farm site is bisected by the B788 linking Greenock with Kilmacolm. The land to the west of the road is open upland moorland drained by burns flowing from the Knocknairshill Reservoir. The wind farm is on land which generally slopes downwards in an easterly and southerly direction. Moorland and semi-improved pastures encircle the site. The north of the site slopes towards housing in upper Greenock. The Glasgow and Clyde Valley Landscape Character Assessment categorises the land within the site as 'Rugged Moorland Hills'. There are two scheduled monuments (Roman Forlet and Hut Circle) close to the eastern periphery of the site. Generating capacity of the wind farm is 24MW.

## BACKGROUND

An application for planning permission (13/0199/IC) for the erection of 8 wind turbines (tip height of 110m), construction of access tracks and ancillary development (including crane hardstandings, cabling, transformers, culverts), formation of borrow pit, erection of sub-station and control building, formation of car park and temporary construction compounds was refused by the Inverclyde Planning Board on 5th November 2014.

The refusal of planning permission was appealed to the Scottish Ministers. The Scottish Ministers upheld the appeal and granted planning permission subject to conditions for the wind farm on 17th May 2016 (DPEA Reference: PPA-280-2022).

Work commenced on the wind farm on 14th May 2019 and electricity was first exported to the grid on 20th November 2020.

## SECTION 42 APPLICATION

Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) relates to applications for planning permission for a development but with different conditions from those attached to the previous permission for that development. The effect of granting permission for a

section 42 application is such that a new and separate permission exists for the development with different (or no) conditions attached. It should be noted that the previous permission remains unaltered by, and is not varied by, the decision on a Section 42 application.

The advice from the Scottish Government (contained in Annex H of Circular 3/2022 – Development Management Procedures) is that in determining Section 42 applications, planning authorities may only consider the issue of the conditions to be attached to any resulting permission. However, in some cases this does not preclude the consideration of the overall effect of granting a new planning permission, primarily where the previous permission has lapsed or is incapable of being implemented. The advice goes on to indicate that where it is considered that permission should be granted subject to different conditions or no conditions, a new permission should be granted and all conditions attached. If it is considered that planning permission should be granted subject to the same conditions as the previous permission, the advice indicates that the Section 42 application should be refused. The making, granting, or refusal of a Section 42 application does not alter or affect the previous permission or its conditions. If a Section 42 application is approved the advice is that planning authorities should attach to the new permission all of those conditions from the previous permission where it is intended these should apply.

## **PROPOSAL**

Condition 2 of the planning permission granted on appeal by the Scottish Ministers states:

*“The permission hereby granted will last for a period of 25 years from the date when electricity is first exported to the electricity grid network from the first of the wind turbines. Written confirmation of that date shall be provided to the planning authority within one month of it occurring. The permission will expire at the end of the 25 year period unless the planning authority has expressly approved an extension in writing”*

Reason:

*Permission was sought on a temporary period only and requires to be reassessed if it is intended to endure beyond the 25 year period. In the interests of amenity.*

This Section 42 application is to amend Condition 2 to extend the operational lifetime of the wind farm to 50 years. The applicant has suggested Condition 2 should state:

*“The permission hereby granted will last for a period of 50 years from the date when electricity is first exported to the electricity grid network from the first of the wind turbines. Written confirmation of that date shall be provided to the planning authority within one month of it occurring. The permission will expire at the end of the 50 year period unless the planning authority has expressly approved an extension in writing.”*

### Submitted Reports

The application has been accompanied with a Supporting Statement (September 2023) as well as a Landscape and Visual Supplementary Environmental Information (January 2024).

## **DEVELOPMENT PLAN POLICIES**

### **National Planning Framework 4**

NPF4 was adopted by the Scottish Ministers on 13th February 2023. NPF4 forms part of the statutory development plan, along with the Inverclyde Local Development Plan and its supplementary guidance. NPF4 supersedes National Planning Framework 3 (NPF3) and Scottish Planning Policy (SPP) (2014). NPF3 and SPP no longer represent Scottish Ministers' planning policy. The Clydeplan Strategic Development Plan and associated supplementary guidance cease to have effect from 13th February 2023 and as such no longer form part of the development plan.

It is important to note that the assessment by the Planning Authority focuses on the significant environmental effects predicted to arise as a result of the development as such effects are more likely to be of a determinative nature in the assessment and conclusions. For the avoidance of doubt a lack of significant effect does not mean there will be no effect at all and non-significant effects are still relevant to the assessment of the development.

NPF4 contains 33 policies and the following are considered relevant to this application.

### **Policy 1 Tackling the climate and nature crisis**

When considering all development proposals significant weight will be given to the global climate and nature crises.

### **Policy 2 Climate mitigation and adaptation**

- 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.
- c) Development proposals to retrofit measures to existing developments that reduce emissions or support adaptation to climate change will be supported.

### **Policy 3 Biodiversity**

- 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. wherever 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

### **Policy 4 Natural Places**

- a) Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.
- 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 any application.

g) Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal: i. will support meeting renewable energy targets; or, ii. is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area. All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration.

### **Policy 7 Historic Assets and Places**

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.

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.

### **Policy 8 Green Belt**

a) Development proposals within a green belt designated within the LDP will only be supported if:

they are for:

- minerals operations and renewable energy developments and;

ii) the following requirements are met:

- reasons are provided as to why a green belt location is essential and why it cannot be located on an alternative site outwith the green belt;
- the purpose of the green belt at that location is not undermined;
- the proposal is compatible with the surrounding established countryside and landscape character;
- the proposal has been designed to ensure it is of an appropriate scale, massing and external appearance, and uses materials that minimise visual impact on the green belt as far as possible;
- there will be no significant long-term impacts on the environmental quality of the green belt.

### **Policy 11 Energy**

a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:

wind farms including repowering, extending, expanding and extending the life of existing wind farms

c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

e) In addition, project design and mitigation will demonstrate how the following impacts are addressed: Impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;

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

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

Public access, including impact on long distance walking and cycling routes and scenic routes;

Impacts on aviation and defence interests including seismological recording;

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

Impacts on road traffic and on adjacent trunk roads, including during construction;

Impacts on historic environment;

Effects on hydrology, the water environment and flood risk;

Biodiversity including impacts on birds;

Impacts on trees, woods and forests;

Proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;

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

Cumulative impacts;

f) Consents for development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity.

Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible

## **Policy 29 Rural development**

b) Development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. They should also consider how the development will contribute towards local living and take into account the transport needs of the development as appropriate for the rural location.

## **Adopted 2019 Local Development Plan Policies**

### **Policy 1 - Creating Successful Places**

Inverclyde Council requires all development to have regard to the six qualities of successful places. In preparing and assessing development proposals, consideration must be given to the factors set out in Figure 3 and demonstrated in a design-led approach. Where relevant, applications will also be assessed against the Planning Application Advice Notes Supplementary Guidance.

### **Policy 4 - Supplying Energy**

Proposals for infrastructure for the generation, storage or distribution of heat and electricity will be supported in principle where they contribute to a reduction in greenhouse gas production. Proposals will be assessed with regard to impact, including cumulative impact on:

- a) the resources protected by the Plan's historic buildings and places and natural and open spaces chapters;
- b) the amenity and operations of existing and adjacent uses;
- c) tourism and recreational resources;
- d) air quality;
- e) aviation and defence interests;
- f) telecommunication and broadcasting interests; and
- g) traffic and pedestrian safety

Where relevant, proposals are to be accompanied with restoration plans acceptable to the Council. Relevant proposals are required to accord with the Council's Supplementary Guidance on Energy.

### **Policy 8 - Managing Flood Risk**

Development proposals will be assessed against the Flood Risk Framework set out in Scottish Planning Policy. Proposals must demonstrate that they will not: a) be at significant risk of flooding (i.e. within the 1 in 200 year design envelope); b) increase the level of flood risk elsewhere; and c) reduce the water conveyance and storage capacity of a functional flood plain.

The Council will support, in principle, the flood protection schemes set out in the Clyde and Loch Lomond Local Flood Risk Management Plan 2016, subject to assessment of the impacts on the amenity and operations of existing and adjacent uses, the green network, historic buildings and places, and the transport network.

### **Policy 10 - Promoting Sustainable and Active Travel**

Development proposals, proportionate to their scale and proposed use, are required to:

- a) provide safe and convenient opportunities for walking and cycling access within the site and, where practicable, include links to the wider walking and cycling network; and
- b) include electric vehicle charging infrastructure, having regard to the Energy Supplementary Guidance.

Proposals for development, which the Council considers will generate significant travel demand, are required to be accompanied by a travel plan demonstrating how travel to and from the site by means other than private car will be achieved and encouraged. Such development should also demonstrate that it can be accessed by public transport.

The Council will support the implementation of transport and active travel schemes as set out in Council-approved strategies, subject to adequate mitigation of the impact of the scheme on: development opportunities; the amenity and operations of existing and adjacent uses; the green network; and historic buildings and places.

### **Policy 11 - Managing Impact of Development on the Transport Network**

Development proposals should not have an adverse impact on the efficient operation of the transport and active travel network. Development should comply with the Council's roads development guidelines and parking standards. Developers are required to provide or contribute to improvements to the transport network that are necessary as a result of the proposed development.

### **Policy 14 - Green Belt and Countryside**

Development in the Green Belt and Countryside will only be permitted if it is appropriately designed, located, and landscaped, and is associated with:

- a) agriculture, horticulture, woodland or forestry;
- b) a tourism or recreational use that requires a countryside location;

- c) infrastructure with a specific locational need;
- d) the appropriate re-use of a redundant stone or brick building, the retention of which is desirable for its historic interest or architectural character, subject to that interest or character being retained; or
- e) intensification (including extensions and outbuildings) within the curtilage of an existing use, which is of an appropriate scale and form.

Proposals associated with the uses set out in criteria a)-c) must provide justification as to why the development is required at the proposed location. Proposals in the green belt must not undermine the objectives of the green belt as set out in Scottish Planning Policy and the Clydeplan Strategic Development Plan. Non-conforming uses will only be considered favourably in exceptional or mitigating circumstances.

### **Policy 33 - Biodiversity and Geodiversity Natura 2000 sites**

Development proposals that are likely to have a significant effect on a Natura 2000 site will be subject to an appropriate assessment of the implications of the proposal on conservation objectives. Proposals will only be permitted if the assessment demonstrates that there will be no adverse effect on the integrity of the site or if:

- a there are no alternative solutions; and
- b there are imperative reasons of overriding public interest, including those of a social or economic nature; and
- c compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

In such cases, the Scottish Ministers must be notified.

#### Sites of Special Scientific Interest

Development affecting Sites of Special Scientific Interest will only be permitted where the objectives of the designation and the overall integrity of the area will not be compromised, or if 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.

#### Protected Species

When proposing any development which may affect a protect species, the applicant should fulfil the following requirements: to establish whether a protected species is present; to identify how the protected species may be affected by the development; to ensure that the development is planned and designed so as to avoid or minimise any such impact, while having regard to the degree of protection which is afforded by legislation, including any separate licensing requirements; and to demonstrate that it is likely that any necessary licence would be granted.

#### Local Nature Conservation Sites

Development is required to avoid having a significant adverse impact on Local Nature Conservation Sites. Any adverse impacts are to be minimised. Where adverse impacts are unavoidable, compensatory measures will be required.

#### Local Landscape Area

Development that affects the West Renfrew Hills Local Landscape Area is required to protect and, where possible, enhance its special features as set out in the Statement of Importance. Where there is potential for development to result in a significant adverse landscape and/or visual impact, proposals should be informed by a landscape and visual impact assessment.



## Non-designated sites

The siting and design of development should take account of local landscape character. All development should seek to minimise adverse impact on wildlife, especially species and habitats identified in the Local Biodiversity Action Plan. Development should take account of connectivity between habitat areas. Where possible, new development should be designed to conserve and enhance biodiversity.

### **Policy 34 - Trees, Woodland and Forestry**

The Council supports the retention of ancient and semi-natural woodland, trees covered by Tree Preservation Orders and other trees and hedgerows, which have significant amenity, historical, ecological, landscape or shelter value. Where the removal of such woodland, trees or hedgerows is proposed as part of a planning application, this will not be supported unless:

- a) it can be clearly demonstrated that the development cannot be achieved without removal;
- b) the public benefits of the proposal outweigh the loss of trees/hedgerows; and
- c) compensatory planting will be provided, to a standard agreed by the Council.

Development affecting trees will be assessed against Supplementary Guidance to be prepared by the Council. This will also cover the protection of ancient woodlands and the management and protection of existing and new trees during and after the construction phase.

### **Policy 37 - Clyde Muirshiel Regional Park**

Proposals for development within Clyde Muirshiel Regional Park will be considered with regard to the Park Objectives and Strategy.

### **Policy 38 - Path Network**

Development that would result in the loss of a core path, right of way or other important outdoor access route will not be permitted unless acceptable alternative provision can be made.

Where applicable, development proposals will be required to provide new paths in order to encourage active travel and/or connectivity to the green network. The provision of routes along water will be an essential requirement on development sites with access to a waterfront, unless not appropriate for operational or health and safety reasons.

The **adopted Supplementary Guidance on Energy applies.**

## **Proposed 2021 Inverclyde Local Development Plan Policies**

### **Policy 1 - Creating Successful Places**

Inverclyde Council requires all development to have regard to the six qualities of successful places. In preparing and assessing development proposals, consideration must be given to the factors set out in Figure 3 and demonstrated in a design-led approach. Where relevant, applications will also be assessed against the Planning Application Advice Notes and Design Guidance for New Residential Development Supplementary Guidance. When assessing proposals for the development opportunities identified by this Plan, regard will also be had to the mitigation and enhancement measures set out in the Strategic Environmental Assessment Environmental Report.

### **Policy 4 - Supplying Energy**

Proposals for infrastructure for the generation, storage or distribution of heat and electricity will be supported in principle where they contribute to a reduction in greenhouse gas production. Proposals will be assessed with regard to impact, including cumulative impact on:

- h) the resources protected by the Plan's historic buildings and places and natural and open spaces chapters;
- i) the amenity and operations of existing and adjacent uses;
- j) tourism and recreational resources;
- k) air quality;
- l) aviation and defence interests;
- m) telecommunication and broadcasting interests; and
- n) traffic and pedestrian safety

Where relevant, proposals are to be accompanied with restoration plans acceptable to the Council. Relevant proposals are required to accord with the Council's Supplementary Guidance on Energy.

### **Policy 9 - Managing Flood Risk**

Development proposals will be assessed against the Flood Risk Framework set out in Scottish Planning Policy. Proposals must demonstrate that they will not: • be at significant risk of flooding (i.e. within the 1 in 200 year design envelope); • increase the level of flood risk elsewhere; and • reduce the water conveyance and storage capacity of a functional flood plain. The Council will support, in principle, the flood risk management schemes set out in the Clyde and Loch Lomond Local Flood Risk Management Plan 2016, subject to assessment of the impacts on the amenity and operations of existing and adjacent uses, the resources protected by the Plans historic buildings and places and natural and open spaces chapters, and the transport network. Where practical and effective, nature-based solutions to flood management will be preferred.

### **Policy 11 - Promoting Sustainable and Active Travel**

Development proposals, proportionate to their scale and proposed use, are required to:

- provide safe and convenient opportunities for walking and cycling access within the site and, where practicable, including links to the wider walking, cycling network and public transport network; and
- include electric vehicle charging infrastructure, having regard to the Energy Supplementary Guidance.

Proposals for development, which the Council considers will generate significant travel demand, are required to be accompanied by a travel plan demonstrating how travel to and from the site by means other than private car will be achieved and encouraged. Such development should also demonstrate that it can be accessed by public transport.

The Council will support the implementation of transport and active travel schemes as set out in national, regional and Council-approved strategies, subject to adequate mitigation of the impact of the scheme on: development opportunities; the amenity and operations of existing and adjacent uses; and the resources protected by the Plan's historic buildings and places and natural and open spaces chapters.

### **Policy 12 - Managing Impact of Development on the Transport Network**

Development proposals should not have an adverse impact on the efficient operation of the transport and active travel network. Development should comply with the Council's roads development guidelines and parking standards, including cycle parking standards. Developers are required to provide or financially contribute to improvements to the transport network that are necessary as a result of the proposed development.

## **Policy 15 - Green Belt and Countryside**

Development in the Green Belt and Countryside will only be permitted if it is appropriately designed, located, and landscaped, and is associated with:

- a) agriculture, horticulture, woodland or forestry;
- b) a tourism or recreational use that requires a countryside location;
- c) infrastructure with a specific locational need;
- d) the appropriate re-use of a redundant stone or brick building, the retention of which is desirable for its historic interest or architectural character, subject to that interest or character being retained; or
- e) intensification (including extensions and outbuildings) of an existing use, which is within the curtilage of the associated use and is of an appropriate scale and form.

Proposals associated with the uses set out in criteria a)-c) must provide justification as to why the development is required at the proposed location.

## **Policy 33 - Biodiversity and Geodiversity European sites**

Development proposals that are likely to have a significant effect on a European site which are not directly connected with or necessary to their conservation management must be subject to an appropriate assessment of the implications of the proposal on conservation objectives. Proposals will only be permitted if the assessment demonstrates that there will be no adverse effect on the integrity of the site either during construction or operation of the development, or if:

- a) there are no alternative solutions; and
- b) there are imperative reasons of overriding public interest, including those of a social or economic nature; and
- c) compensatory measures are provided to ensure that the overall coherence of the network is protected.

In such cases, the Scottish Ministers must be notified.

### **Sites of Special Scientific Interest**

Development affecting Sites of Special Scientific Interest will only be permitted where the objectives of the designation and the overall integrity of the area will not be compromised, or if 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.

### **Protected Species**

When proposing any development which may affect a protected species, the applicant should fulfil the following requirements: to establish whether a protected species is present; to identify how the protected species may be affected by the development; to ensure that the development is planned and designed so as to avoid or minimise any such impact, while having regard to the degree of protection which is afforded by legislation, including any separate licensing requirements; and to demonstrate that it is likely that any necessary licence would be granted.

### **Local Nature Conservation Sites**

Development is required to avoid having a significant adverse impact on Local Nature Conservation Sites. Any adverse impacts are to be minimised. Where adverse impacts are unavoidable, adequate compensatory measures will be required.

## Non-designated sites

All development should seek to minimise adverse impact on wildlife, especially species and habitats identified in the Local Biodiversity Action Plan. Development should take account of connectivity between habitat areas. Where possible, new development should be designed to conserve and enhance biodiversity.

### **Policy 34 - Landscape**

The siting and design of development should take account of local landscape character and setting in order to conserve, enhance and/or restore landscape character and distinctiveness. Development should aim to conserve those features that contribute to local distinctiveness including:

- the setting of buildings and settlements within the landscape
- the pattern of woodlands, fields, hedgerows and trees; especially where they define/ create a positive settlement/ urban edge
- the character and distinct qualities of river corridors
- historic landscapes
- topographic features, including important/prominent views, vistas and panoramas

When assessing development proposals likely to have a significant impact on the landscape, the guidance contained in the Glasgow and Clyde Valley Landscape Character Assessment will be taken into account.

Development that affects the West Renfrew Hills Local Landscape Area is required to protect and, where possible, enhance its special landscape qualities as set out in the Statement of Importance. Where there is potential for development to result in a significant adverse landscape and/or visual impact, proposals should be amended to avoid or mitigate these impacts through being informed by a landscape and visual impact assessment.

### **Policy 35 - Trees, Woodland and Forestry**

The Council supports the retention of trees, including ancient and semi-natural woodland, trees covered by Tree Preservation Orders and other trees and hedgerows, which have significant amenity, historical, ecological, landscape or shelter value. Where the removal of such woodland, trees or hedgerows is proposed as part of a planning application, this will not be supported unless:

- it can be clearly demonstrated that the development cannot be achieved without removal; or
- the public benefits of the proposal outweigh the loss of trees/hedgerows; and
- compensatory planting will be provided, to a standard agreed by the Council.

Development affecting trees will be assessed against Supplementary Guidance to be prepared by the Council.

Proposals for new forestry/woodland planting will be assessed with regard to the policies of this Plan and the Forestry and Woodland Strategy for the Glasgow City Region.

### **Policy 36 - Safeguarding Green Infrastructure**

Proposals for new or enhanced open spaces, which are appropriate in terms of location, design and accessibility, will be supported. Development proposals that will result in the loss of open space which is, or has the potential to be, of quality and value, will not be permitted, unless provision of an open space of equal or enhanced quality and value is provided within the development or its vicinity. Outdoor sports facilities will be safeguarded from development except where:

- a) the proposed development is ancillary to the principal use of the site as an outdoor sports facility, or involves only a minor part of the facility and would not affect its use for sport and training;
- b) the facility to be lost is to be replaced by a new or upgraded facility of comparable or better quality, which is convenient for the users of the original facility and maintains or improves overall playing capacity in the area; or
- c) a relevant strategy demonstrates a clear excess of provision to meet current and anticipated demand, and the development would not result in a reduction in the overall quality of provision.

Development that would result in the loss of a core path, right of way or other important outdoor access route will not be permitted unless acceptable alternative provision can be made.

### **Policy 38 - Clyde Muirshiel Regional Park**

Proposals for development within Clyde Muirshiel Regional Park will be considered with regard to the Park Objectives and Strategy and to the Park's statutory purpose of providing recreational access to the countryside.

The **Draft Supplementary Guidance on Energy** applies.

### **CONSULTATIONS**

**Head of Service - Roads and Transportation** - has no objection to extending the operational life of the wind farm.

**Public Protection Manager** - has no comment to make.

**Scottish Gas Networks** - has no objection.

**Glasgow Prestwick Airport** - has advised that the application to extend the operational life of the wind farm has no aviation safeguarding implications, and does not object.

**Glasgow Airport** - confirmed that an amendment to the Radar Mitigation Agreement was signed on 11th March 2024. Therefore Glasgow Airport has no objection to the proposal.

**Historic Environment Scotland** - are content that the proposed variation to Condition 2 will not lead to changes to the previously assessed effects on the historic environment. Their view is that the proposals do not raise historic environment issues of national interest and therefore do not object.

**Ministry of Defence** - has no objection to the variation of Condition 2 as there are no physical changes to the consented development. Advises they wish to be consulted and notified of any alterations or other submissions relating to this proposal in order that amendments can be checked for any additional impact on defence interests as even the slightest change to the form and layout of the scheme may have significant impacts.

**Scottish Civic Trust** - has no comment to make.

**North Ayrshire Council** - has no comments to make.

**Renfrewshire Council** - has no objection.

**Transport Scotland** - does not propose to advise against the granting of permission.

**NatureScot** - has no comment to make.

**National Air Traffic Service** - has no safeguarding objection to the proposal.

## **PUBLICITY**

The application was advertised in the Greenock Telegraph on 2nd February 2024 as there are no premises on neighbouring land.

## **SITE NOTICES**

This type of application does not require a site notice.

## **PUBLIC PARTICIPATION**

The application was the subject of neighbour notification and no representations were received.

The Kilmacolm Civic Trust has objected on the basis that it is premature to extend the operational life of the wind farm, in light of potential changes that may occur in the renewables market.

## **ASSESSMENT**

Although this is a Section 42 application it should be noted that this is a Major Development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 as the generating capacity of the windfarm exceeds 20MW and does not exceed 50MW.

The Scottish Ministers considered the wind farm to be acceptable, including in terms of impacts on the landscape, visual impact, noise, shadow flicker, impacts of communities and individual dwellings, when assessed against the development plan and material considerations when determining the appeal against the refusal of planning permission. As this is an application to amend a condition of the planning permission granted on appeal it is not considered necessary to otherwise re-assess the details of the wind farm development against the relevant Development Plan policies given that the wind farm is operational. Since the planning permission was granted on appeal and the wind farm has become operational National Planning Framework 4 has been adopted. In accordance with the advice from the Scottish Government contained in Annex H of Circular 3/2022 on Development Management Procedures this Section 42 application shall consider the condition that is proposed to be amended and the assessment will therefore primarily focus on the relevant policies from National Planning Framework 4 as well as any relevant policies of the adopted Inverclyde Local Development Plan and the proposed Inverclyde Local Development Plan. The Local Development Plans are supported by the adopted and draft versions of the "Supplementary Guidance on Renewable Energy".

With regard to this Section 42 application the advice at paragraph 10 of Annex G (Duration of Planning Permission) of Scottish Government Planning Circular 3/2022 is also relevant. The advice is a Section 42 application can be used to apply for a new planning permission for the same development, but with different conditions, including in respect of duration. Even where such an application does not relate specifically to conditions on duration or time periods for subsequent approvals or actions, the Planning Authority and the applicant will nevertheless want to give consideration as to whether conditions in these regards need to be amended due, for example, to the passage of time since the earlier permission was granted.

## **The Policy Context**

### National Policy

National policy is contained in National Planning Framework 4. The six overarching spatial principles in National Planning Framework 4 are identified as:

**Just transition.** Empower people to shape their places and ensure the transition to net zero is fair and inclusive.

**Conserving and recycling assets.** Make productive use of existing buildings, places, infrastructure and services, locking in carbon, minimising waste, and building a circular economy.

**Local living.** Support local liveability and improve community health and wellbeing by ensuring people can easily access services, greenspace, learning, work and leisure locally.

**Compact urban growth.** Limit urban expansion so as to optimise the use of land to provide services and resources, including carbon storage, flood risk management, blue and green infrastructure and biodiversity.

**Rebalanced development.** Target development to create opportunities for communities and investment in areas of past decline, and manage development sustainably in areas of high demand.

**Rural revitalisation.** Encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together.

By applying these spatial principles the national spatial strategy is to support the planning and delivery of sustainable, liveable and productive places which are to be net zero, nature-positive places that are designed to reduce emissions and adapt to the impacts of climate change, whilst protecting, recovering and restoring the environment.

This application to extend the operational lifetime of the wind farm draws significant support from Policies 1 and 2 of NPF4. Regarding Policy 1, the principle of extending the operational lifetime of a renewable energy development is of significant net benefit to efforts to tackle the climate crisis. Providing zero and low carbon energy primarily replaces energy sources derived directly from fossil fuels. The proposal to extend the operational life of the wind farm also draws general support from Policy 2 of NPF4 as the development minimises greenhouse gas emissions by producing renewable energy.



Access into the Inverclyde Wind Farm taken from the B788

Regarding the nature crisis under Policy 1 of NPF4 matters related to tree loss, impacts on watercourses, disturbance to wetland, disruption to drainage, loss of peat and pollution risk were assessed when planning permission was granted on appeal by the Scottish Ministers. Extending the operational life of the wind farm is not considered to have a material impact on these matters.

With regard to Policy 3 of NPF4 relating to 'Biodiversity' Condition 9 of the planning permission granted on appeal required the appointment of an Ecological Clerk of Works (ECoW). A key role of the ECoW was to undertake pre-construction surveys for protected species. Condition 7 of the planning permission granted on appeal required a Construction Environmental Management Plan (CEMP) which included habitat improvement and management measures. As part of Condition 7 an update to the Habitat Management Plan (HMP) was submitted in October 2020 which included a summary of habitat improvement measures. This included measures such as ditch blocking to improve drainage and grazing/vegetation management to support heath and bog habitats. Habitat improvement measures for bird species were also outlined. Measures to monitor effectiveness were also included. The commitment to the HMP by the wind farm operator is stated as applying for the entire duration of the operational life of the wind farm. Should the operational lifetime of the wind farm be extended it would be incumbent on the wind farm operator to continue the HMP. Should this Section 42 application be approved this matter can be addressed by a planning condition in order to comply with the terms of Policy 3 of NPF4.

The extension of the lifetime of wind farm is not considered to impact on any historic assets as there have been no significant changes in baseline conditions have occurred since the planning permission was granted on appeal and the wind farm has become operational. This has been confirmed in the consultation response from Historic Environment Scotland. The extended operational lifetime of the wind farm is therefore considered to accord with the terms with Policy 7 of NPF4.

Policy 8 a) of NPF4 indicates that development proposals within a green belt designated within Local Development Plans will only be supported if they are for minerals operations and renewable energy developments and subject to consideration about impacts including on landscape character and there being no significant long-term impacts on the environmental quality of the green belt.

The location for the wind farm in the green belt and its associated impacts were considered acceptable when the appeal was determined by the Scottish Ministers. As the wind farm is operational it is acknowledged there will be impacts on the landscape and visual impacts during the current operational lifetime of the wind farm. It is considered these impacts will be similar for any extended operational lifetime of the wind farm. The extended operational lifetime of the wind farm can be considered to be acceptable under the terms of Policy 8 of NPF4.

Policy 11 a) of NPF4 on Energy supports proposals for all forms of renewable, low-carbon and zero emissions technologies. The extended operational lifetime of the wind farm can be considered to be acceptable under the terms of Policy 11 a) of NPF4.

Policy 11 c) of NPF4 on Energy indicates proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. In terms of socio-economic benefits the Scottish Ministers concluded that a net economic benefit was likely but may be modest, and difficult to measure in local terms. The wind farm has exported electricity since 2020 and any economic benefits from construction have passed. A degree of employment is supported by the operation and maintenance of the wind farm. The eventual decommissioning of the wind farm could provide some further employment and supply chain benefits.

Policy 11 e) of NPF4 relates to impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker. There has been a resultant visual impact and change in the landscape character as a result of the construction and operation of the wind farm. Policy 11 of NPF4 states that landscape and visual impacts are to be expected with renewable energy developments, and that where impacts are localised they would normally be acceptable. These impacts were considered to be acceptable when the Scottish Ministers granted planning permission on appeal. It is considered that these impacts will remain the same for the extended operational lifetime of the wind farm as this Section 42 application does not involve any physical changes to the wind farm. The appeal decision included planning conditions relating to operational noise limits for the turbines and a noise complaint protocol as well as controls over noise levels during decommissioning. The planning condition relating to operational noise limits for the turbines is



required to continue to apply to the extended operational lifetime of the wind farm, should this application be approved.



Interior of site: track and turbine facing north west into the site

With regard to the impact on public access, including impact on long distance walking and cycling routes and scenic routes, this was considered to be acceptable when the planning appeal was determined by the Scottish Ministers and physical access to core paths would not be disrupted as a result of the long term operation of the site. A planning condition was attached to the appeal decision which required the submission of a plan to demonstrate how public access could be improved. The information was submitted relating to a further pathway to enhance accessibility, which was considered acceptable. The access track network within the wind farm is used for recreational purposes including walking. As this Section 42 application does not propose to physically change the wind farm the access tracks will be accessible during the extended operational lifetime of the wind farm.

In terms of impacts on aviation and defence interests, including seismological recording, the planning permission granted on appeal includes a condition relating to a radar mitigation. A Primary Radar Mitigation Scheme contract was signed by the wind farm operator and Glasgow Airport to comply with the planning condition. An updated contract was agreed between Glasgow Airport and the wind farm operator on 11th March 2024. As such Glasgow Airport has no aviation safeguarding objections to the proposal to extend the operational life of the wind farm. Glasgow Prestwick Airport, the National Air Traffic Service and the Ministry of Defence also have no aviation objections to the proposed extended operational lifetime of the wind farm.

In terms of Impacts on telecommunications and broadcasting installations Condition 16 of the planning permission granted on appeal has a condition that required the provision of a television and radio mitigation plan. This condition relates to complaints about interference being investigated for a

period of 12 months after the commissioning of the wind farm. The 12 months period has now passed and no significant risk to broadcasting reception is anticipated from the extended operation of the wind farm. As the 12 months period has passed it is not considered necessary to include a planning condition similar to Condition 16, should this application be granted.

Impacts on the roads network and traffic, including during construction, were assessed when the appeal was determined by the Scottish Ministers. The impacts were addressed by a Traffic Management Plan and method statement prior to the commencement of development. The current operation of the wind farm including any maintenance involved is not considered to have significant issues regarding traffic volumes or access arrangements. It is considered that this will be the same for the extended operational lifetime of the wind farm.

With regard to impacts on the historic environment the extension of the operational lifetime of wind farm is not considered to impact on any historic assets as there have been no significant changes in baseline conditions have occurred since the planning permission was granted on appeal and the wind farm has become operational.

With regards to the effects on hydrology, the water environment and flood risk these were considered when the planning appeal was determined. These impacts were primarily during the construction phase where ground breaking occurred and pollution risks were most likely. The planning permission granted on appeal contains conditions relating to method statements for water crossings, watercourse monitoring, de-watering, provision of a ground water protection plan, measures to protect Ground Water Dependent Terrestrial Ecosystems and monitoring of private water supplies. An Ecological Clerk of Works was also appointed with a remit to protect the water environment. In summary, the main impacts on the water environment would have been as a result of the wind farm during the construction phase. It is not considered that the extended operational lifetime of the wind farm poses any significant risk to the water environment.

In terms of impacts on biodiversity and bird species these were considered when the appeal was determined by the Scottish Ministers. Conditions were attached including requiring the monitoring of construction works during the breeding season. Measures for habitat improvement were also subject to a condition. Habitat improvement is likely to have some potential benefits long term, and throughout the operational lifetime of the wind farm. The extension of the operational lifetime of the wind farm is not considered to have any additional adverse impacts in this regard.

In terms of impacts on trees, woods and forests a number of trees were removed to the east of the B788 to facilitate access to the site. This was considered acceptable when the appeal was determined by the Scottish Ministers. The extended operational lifetime of the wind farm is not considered to have any demonstrable impact on existing woodland and trees.

In terms of proposals for the decommissioning of energy developments, including ancillary infrastructure, and site restoration the decommissioning and site restoration has been addressed by a planning condition of the planning permission granted on appeal. Should this Section 42 application be granted a planning condition will be required to ensure decommissioning and restoration at the end of the extended operational lifetime of the wind farm.

In terms of the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans the provision of a financial guarantee and the decommissioning of the wind farm was addressed by a planning condition on the planning permission granted on appeal. This was approved and it is considered that a planning condition is required to address this for the extended operational lifetime of the wind farm.

In terms of cumulative impacts this Section 42 application has been accompanied with The applicant has provided wireframes and a Zone of Theoretical Visibility representing 9 viewpoints up to 10km from the wind farm. The viewpoints represent a variety of receptors including residential locations, road users, recreational users and historic assets. The visualisations indicate that there is no cumulative visual impact beyond that assessed previously. There have been no developments

consented since the planning permission granted on appeal that would significantly add to the cumulative baseline.

Policy 11 f) of NPF4 indicates that consents for energy development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity. Policy 11 f) therefore offers support for a longer operational period for the wind farm than was granted when the planning appeal was determined.

Drawing the matters referred to above together, the proposed extension to the operational lifetime of the wind farm is considered to comply with the terms of Policy 11 of NPF4.

Policy 29 b) of NPF4 indicates that development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. The location for the wind farm and its associated impacts were considered acceptable when the appeal was determined by the Scottish Ministers. As the wind farm is operational it is acknowledged that as a result of the number and size of the turbines that there will be impacts on the character of the area during the current operational lifetime of the wind farm. It is considered these impacts will be similar for the extended operational lifetime of the wind farm. The extended operational lifetime of the windfarm can be considered to be acceptable under the terms of Policy 29 b) of NPF4.

### Local Policy

It should be noted that the 2019 Inverclyde Local Development Plan and the Supplementary Guidance on Energy were adopted after the planning permission was granted on appeal by the Scottish Ministers. The planning permission granted on appeal also pre-dates the preparation of the 2021 proposed Inverclyde Local Development Plan and the accompanying draft version of the Supplementary Guidance on Energy.

There are a number of the policies in both the adopted and proposed Local Development Plans that would be relevant to the assessment of a proposed windfarm development at this location. These policies are:

- Policy 1 of both LDPs on Creating Successful Places;
- Policy 4 of both LDPs on Supplying Energy;
- Policy 8 of the adopted LDP and Policy 9 of the proposed LDP on Managing Flood Risk;
- Policy 10 of the adopted LDP and Policy 11 of the proposed LDP on Promoting Sustainable and Active Travel;
- Policy 11 of the adopted LDP and Policy 12 of the proposed LDP on Managing Impact of Development on the Transport Network;
- Policy 14 of the adopted LDP and Policy 15 of the proposed LDP on Green Belt and Countryside;
- Policy 33 of both LDPs on Biodiversity and Geodiversity Natura 2000 sites;
- Policy 34 of the adopted LDP and Policy 35 of the proposed LDP on Trees, Woodland and Forestry;
- Policy 37 of the adopted LDP and Policy 38 of the proposed LDP on Clyde Muirshiel Regional Park;
- Policy 38 of the adopted LDP on Path Network;
- Policy 24 of the proposed LDP on Landscape; and
- Policy 36 of the proposed LPD on Safeguarding Green Infrastructure.

As the windfarm has been constructed and is operational it is not considered necessary to re-assess the principle or the details of the windfarm against the relevant policies of the adopted and proposed Local Development Plans or the supplementary guidance. The principle of the windfarm at this location was accepted when the planning permission was granted on appeal. The proposed extended operational lifetime of the windfarm can be assessed against the relevant policies as follows.

Policy 4 of both the adopted and proposed Local Development Plans relate to supplying energy. The assessment of the various matters referred to in Policy 4 of both Local Development Plans is the same as the assessment of these matters against the equivalent policy of NPF4, ie Policy 11.

Policy 8 of the adopted Local Development Plan and Policy 9 of the proposed Local Development Plan relate to managing flood risk. The wind farm has been fully operational since 2020. Flood risk impacts were assessed when planning permission was granted on appeal and considered to be acceptable. Most impacts in this regard would have been expected during construction of the windfarm and the continued operation of the windfarm is not considered to have implications for flood risk.

Policy 10 of the adopted Local Development Plan and Policy 11 of the proposed Local Development Plan relate to promoting sustainable and active travel and managing impact of development on the transport network respectively. In combination these policies promote safe walking and cycling routes. The provision of recreational routes within the windfarm was considered acceptable when planning permission was granted on appeal and the extended operational period would continue the public accessibility of the site for recreational purposes.

Policy 14 of the adopted Local Development Plan and Policy 15 of the proposed Local Development Plan relate to the green belt and countryside. The assessment of the planning permission granted on appeal concluded that the openness of the green belt was not impacted by the development and a particular locational need was demonstrated. As the windfarm is operational and has become an established feature in the landscape it is considered that any impact on the green belt as a result of the extended operational lifetime of the windfarm is acceptable.

Policy 33 of both Local Development Plans relate to biodiversity and geodiversity it was concluded that the development had limited potential to impact negatively on biodiversity when planning permission was granted on appeal. It is considered incumbent on the applicant/operator to continue the Habitat Management Plan and steering group commitments for the extended operational lifetime. The continuing Habitat Management Plan provides a long term improvement to habitat, nature networks and biodiversity and can be addressed by a planning condition should this application be approved.

Woodland removal was considered acceptable when planning permission was granted on appeal. The wind farm is operational and there is no requirement to remove or replace woodland. The extended operational lifetime of the windfarm is not considered to have implications for Policy 34 of the adopted Local Development Plan nor Policy 35 of the proposed Local Development Plan.

Policy 34 of the proposed Local Development Plan indicates developments should take account of local landscape character and setting to preserve, enhance or restore distinctiveness. The impact of the windfarm on the landscape was considered acceptable when planning permission was granted on appeal. The windfarm is operational and has become an established feature in the landscape. No physical changes are proposed to the windfarm in this application and therefore it is considered that any impact on the landscape as a result of the extended operational lifetime of the windfarm remains acceptable.

Policy 37 of the adopted Local Development Plan and Policy 38 of the proposed Local Development Plan relate to developments within the Clyde Muirshiel Regional Park. Development proposals should reflect the aims of the Park's statutory purpose of providing recreational access to the countryside. When planning permission was granted on appeal the windfarm was assessed as providing a net positive contribution to recreational access and having no discernible impact on the qualities of Clyde Muirshiel Regional Park. As the windfarm is operational and has become an established feature in the landscape it is considered that any impact on the Regional Park as a result of extending the operational lifetime of the windfarm remains the same.

Policy 38 of the adopted Local Development Plan relates to the path network. No recreational paths were considered as being impacted when planning permission was granted on appeal, with some additional provision being provided by the windfarm development. No physical changes are proposed to the wind farm in this application and the impacts as previously assessed remain the same.

Policy 36 of the proposed Local Development Plan refers to safeguarding green infrastructure, which states that proposals which provide new or enhanced open spaces will be supported. The definition of green infrastructure includes low carbon infrastructure such as wind energy.

The Supplementary Guidance on Energy was published in 2018 and the planning permission granted on appeal pre-dates the publication of this guidance. The various matters referred to in the guidance have been assessed through the relevant policies of NPF4 and of both the adopted and proposed Local Development Plans. This application to extend the operational lifetime of the windfarm has concluded that such impacts remain acceptable in order to accord with the guidance. This also applies to the draft version of the guidance that has been prepared for the proposed Local Development Plan.

### Representation

The Kilmacolm Civic Trust object on the basis that the application to extend the operational period of the windfarm is premature, in light of technological changes that may occur in the future. It should be noted that Policy 11 of NPF4 has reiterated that wind turbine developments should be viewed as permanent, and that assessments on the suitability of locations for wind energy should be based on the presumption that the development is permanent. The terms of Policy 11 of NPF4 is therefore a significant material consideration in assessing this Section 42 application.

### Overall Conclusion

NPF4 gives support to developments that tackle the climate and nature crises as well as addressing climate mitigation and adaption. Policies 1 and 2 of NPF4 are significant material considerations in determining this Section 42 application.

The wind farm generates electricity from a renewable source and therefore accords with NPF4. The extended operational lifetime of the windfarm as applied for is considered to accord with Policies 1 and 2 of NPF4 as generating electricity from a renewable source will continue over a longer time period and continue to contribute to meeting the Scottish Government's renewable energy targets. Policy 11 of NPF4 is of relevance to assessing this Section 42 application and in particular indicates that areas identified for windfarms are expected to be suitable for use in perpetuity. The extended operational lifetime of the windfarm therefore complies with the terms of Policy 11 of NPF4 in this regard.

The extended operational lifetime of the existing windfarm is considered to comply with other relevant policies of NPF4, as well as relevant policies of both the adopted and proposed Local Development Plans.

As a new planning decision is required to be issued planning conditions will be necessary as they relate to the extended operational lifetime of the windfarm. In accordance with the advice in Annex G of Scottish Government Planning Circular 3/2022 conditions are necessary and will be similar to the equivalent conditions on the planning permission granted on appeal or the wording is required to be updated to reflect the continued requirement for conditions to be complied with throughout the duration of the extended planning permission.

The amended wording for the condition relating to the operational lifetime of the windfarm suggested by the applicant refers to written confirmation being submitted to the Planning Authority within one month of first export occurring of electricity to the grid network from the first turbines. As the windfarm is already operational this wording is not necessary, and Condition 1 below is considered to be appropriate.

It should be noted there is no legal agreement pertaining to this windfarm. Given the nature of change proposed in this application, it is not considered that it would be appropriate to now require such an agreement, if this Section 42 application is granted.

## **RECOMMENDATION**

That the Section 42 application be granted subject to the following conditions:

1. The permission hereby granted will last for a period of 50 years from the date when electricity was first exported to the electricity grid network from the first of the wind turbines. The permission will expire at the end of the 50 year period unless the Planning Authority has expressly approved an extension in writing. For the avoidance of doubt, the date of first export is accepted as being on 20th November 2020.

2. Upon expiry of the planning permission, as detailed in Condition 1 above, the shall site be restored in accordance with the approved document 'Decommissioning, site restoration and aftercare strategy v4' dated 7th September 2023. Decommissioning in accordance with the approved scheme shall be completed within 12 months of the end of the period of this planning permission or any alternative timescale that has been agreed in writing with the Planning Authority and shall include the dismantling and removal from the site of all turbines, buildings and ancillary development. The approved plan and Decommissioning Method Statement shall be implemented as approved and overseen by an Environmental Clerk of Works (ECOW).

3. The windfarm operator shall ensure that the approved bond (ref: 03-1034094671-0) dated 15 August 2019 or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in Condition 2 above is maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations. The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in Condition 2 above. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

4. If any wind turbine stops generating and supplying electricity to the grid for a continuous period of 6 months, it shall be deemed to have ceased to be required unless otherwise agreed in writing by the Planning Authority. Within a further 6 month period a scheme for the removal of the turbine and reinstatement of the site of the wind turbine base and its ancillary equipment and infrastructure or alternatively for the bringing back in to use of the turbine with the agreement of the Planning Authority shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved scheme shall be implemented in full.

5. If the development fails to generate electricity on a commercial basis to the grid network for a continuous period of 12 months from 50% or more of the turbines installed and commissioned, the operator shall immediately notify the Planning Authority in writing and shall, if the Planning Authority directs, decommission the development and reinstate the site in accordance with the terms of Condition 2 above.

6. The wind turbines shall all rotate in the same direction.

7. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended), no symbols, signs, logos or other lettering (other than those required for health and safety reasons) shall be displayed on the turbines other buildings or structures within the site without a grant of advertisement consent from the Planning Authority.

8. Decommissioning work that is audible from the boundary of any noise sensitive receptor shall take place only between the hours of 08.00 to 18.00 Monday to Friday inclusive and 09.00 to 13.00 on Saturdays, with no working at any time on a Sunday, local or national public holiday. Work that is inaudible from any noise-sensitive property may be undertaken outwith these times, which may include turbine erection and commissioning, maintenance, emergency works, dust suppression and the testing of plant and equipment.

9. The level of noise emissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty) when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Table. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the Tables attached shall be those of the physically closest location listed in the Tables unless otherwise agreed with the Planning Authority.

10. Within 28 days from the receipt of a written request from the Planning Authority and following a complaint to the Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at the wind farm operator's expense, employ an independent consultant approved by the Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property following the procedures described in the attached Guidance Notes.

11. The windfarm operator shall provide to the Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Planning Authority unless otherwise extended in writing by the planning authority. Any necessary mitigation works shall then be implemented in full, to the written satisfaction of the Planning Authority and in accordance with timescales that have been agreed by the Planning Authority.

12. The Radar Mitigation Scheme, agreed on 10th November 2017 and subject to an amendment agreement dated 11th March 2024, shall be implemented in full and adhered to at all times for the extended operational lifetime of the windfarm unless otherwise agreed in advance in writing by the Planning Authority and in consultation with Glasgow Airport.

13. No later than twelve months from the date of this decision, an updated Habitat Management Plan based on the Habitat Management Plan approved under Condition 7 of 13/0199/IC and dated October 2020 shall be submitted for the approval in writing by the Planning Authority. The updated Habitat Management Plan shall detail any habitat management required on the site and adjacent to it to ensure appropriate steps are taken to minimise impacts on the habitat. Following approval the Habitat Management Plan shall be implemented throughout the full operational lifetime of the development and shall only come to an end when decommissioning begins.

Reasons:

1. Permission was sought on a temporary period only and requires to be reassessed if it is intended to endure beyond the 50 year period and in the interests of amenity.

2. To ensure that the site is decommissioned appropriately.

3. To ensure that sufficient funds are in place to enable the removal of the turbines and restoration of the site at the end of the operational period.

4. To enable the Planning Authority to retain control over the development, in the interests of visual amenity.

5. To enable the Planning Authority to retain control over the development, in the interests of visual amenity.
6. In the interests of visual amenity.
7. In the interests of visual amenity.
8. To minimise and control noise and disturbance outwith normal working hours.
9. To protect the amenity at noise sensitive properties.
10. To protect the amenity at noise sensitive properties.
11. To protect the amenity at noise sensitive properties.
12. To ensure that the development does not endanger the safe and efficient movement of aircraft through interference with communication, navigational aids and surveillance equipment.
13. In the interests of protection of the natural environment.

#### SCHEDULE OF NOISE GUIDANCE NOTES

These notes form part of conditions 9 - 11. They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

#### NOTE 1

a) Values of the LA90,10min noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied. b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local Planning Authority), and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 3.5m away from the building facade or any reflecting surface except the ground at a location agreed with the Local Planning Authority. c) The LA90,10min measurements shall be synchronised with measurements of the 10- minute arithmetic mean wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm. d) The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height anemometer located on the site meteorological mast unless otherwise agreed with the Local Planning Authority, to enable compliance with the conditions to be evaluated. The mean wind speed data shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c)

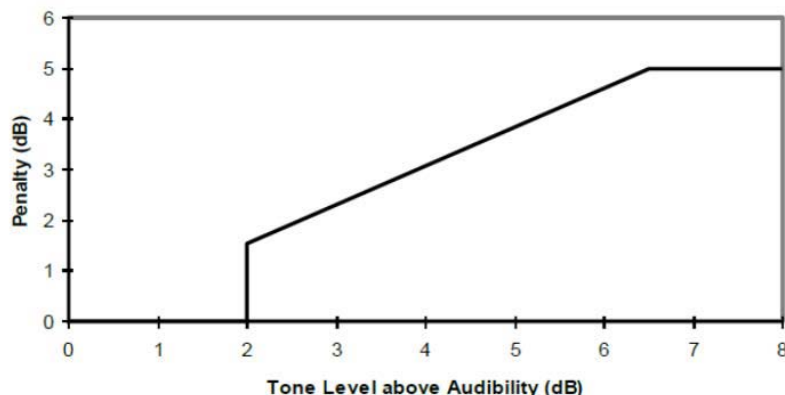


## NOTE 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the wind farm operator shall provide within 28 days of the completion of the measurements all of the data collected under condition 2 to the local planning authority (b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter. (c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local planning authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured LA90,10min noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

## NOTE 3

Where, in the opinion of the Local Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used. a) For each 10-minute interval for which LA90,10min data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise immissions during 2- minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10- minute intervals provided that uninterrupted clean data are available. Where clean data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported. b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference,  $\Delta L_{tm}$  (Delta Ltm), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97. c) The margin above audibility shall be plotted against wind speed for each of the 2- minute samples. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted. d) A linear regression shall then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average shall be used. e) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



NOTE 4

If the wind farm noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind farm switched off in order to determine the background noise, L3, at the assessed wind speed. The wind farm noise at this wind speed, L1, is then calculated as follows, where L2 is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

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

The wind farm noise level is re-calculated by adding the tonal penalty (if any) to the wind farm noise.

**Table of Noise Limits relative to Condition 9.**

Location	Time Period	Standardised 10 m height Wind Speed								
		4	5	6	7	8	9	10	11	12
Northern Dwellings	Night-time	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
	Daytime	35.0	35.0	35.3	36.3	37.3	37.9	38.0	38.0	38.0
Auchentiber	Night-time	43.0	43.0	43.0	43.0	43.0	43.0	44.7	49.0	53.8
	Daytime	35.0	35.7	36.5	37.6	39.5	42.3	46.3	51.9	59.4
Southern Dwellings	Night-time	43.0	43.0	43.0	43.0	43.0	43.0	44.8	50.4	57.3
	Daytime	35.0	35.0	35.3	37.1	39.3	42.0	45.0	48.4	52.1
Whitelees Cottage	Night-time	43.0	43.0	43.0	43.0	43.0	46.5	50.4	54.0	57.1
	Daytime	35.0	35.0	36.3	40.0	43.9	47.7	51.2	54.0	55.8

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Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact Colin Lamond on 01475 712422.