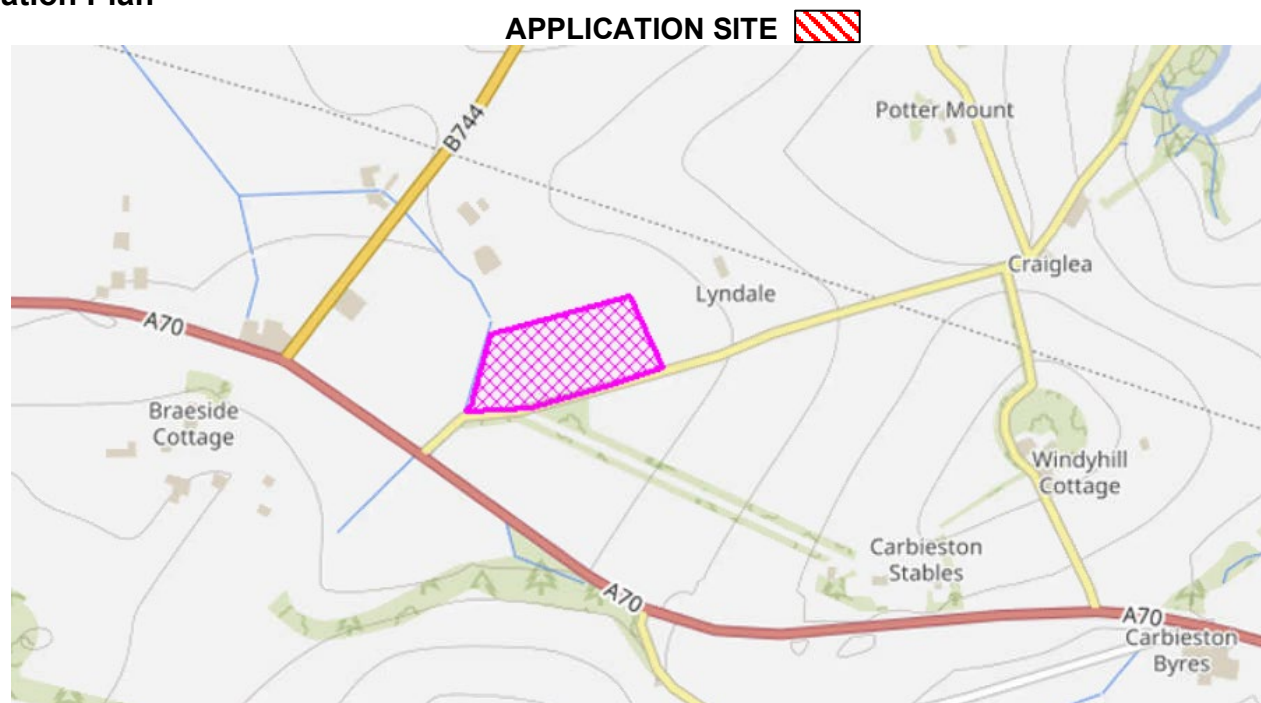


REGULATORY PANEL: 03 APRIL 2025**REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT****24/00878/DEEM****LAND AT BELSTON C2 FROM A70 SOUTH EAST OF BELSTON TO COUNCIL BOUNDARY
SOUTH OF LAIGH DALMORE MAUCHLINE SOUTH AYRSHIRE KA6 5JR****Location Plan**

This product includes mapping data licensed from Ordnance Survey with permission of the Controller of Her Majesty's Stationery Office.
© Crown copyright and/or database right 2018. All rights reserved. Licenced number 100020765.

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

[Scottish Government - Energy Consents Unit - Application Details](#)

Summary

The Planning Service has received a consultation from the Scottish Government Energy Consents Unit (ECU) for a development comprising the installation of a battery energy storage system (BESS) and associated infrastructure with a generating capacity of up to 150MW on land at Belston C2 from the A70 south-east of Belston to the Council boundary south of Laigh Dalmore, KA6 5JR. The application site area extends to approximately 3 hectares.

It should be noted that the Council is not the determining authority for this proposal but rather are a statutory consultee to the Section 36 application process. Under Section 36 of the Electricity Act, if the proposal is approved, the development will also receive deemed planning permission pursuant to Section 57 (2) of the Town and Country Planning (Scotland) Act 1997.

The site is located on land to the northeast of the A70 at Belston approximately 2.6km to the east of the town of Ayr and consists of two even sized pastoral fields, enclosed on all sides by established hedgerows, which have gaps in places and contain mature trees in others. A small stream runs parallel to the western site boundary and a minor road along its southern extent. From a highpoint of approximately 48m AOD in the eastern corner of the site, the land very gently slopes towards the northwest to a point of 41m AOD. The site would be accessed via an unclassified road.

The site does not form part of any statutory designated site for nature conservation with qualifying ecological interests.

This proposed development aligns with the intent of primary NPF4 policies which seek to address the climate emergency through promoting development that minimises emissions to achieve zero carbon, restore the natural environment and adapts to the current and future impacts of climate change.

Having considered the application submission as a whole including the identified benefits of the scheme, together with the consultation responses received and having balanced the developers' interest against the wider community interest, the proposal is considered to be acceptable in principle. As is the now agreed position in regard to S36 consultations, it is recommended that the Council objects to the proposal unless the conditions set out below are imposed in their entirety, unless suitable alternative conditions are agreed in writing between the Energy Consents Unit and the Planning Service. Members should note that if the Scottish Ministers choose not to impose some or all of the conditions this should trigger a Public Local Inquiry to be held before a final decision can be reached.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

REGULATORY PANEL: 03 APRIL 2025

SUBJECT:	CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989
APPLICATION REF:	24/00878/DEEM
SITE ADDRESS:	LAND AT BELSTON C2 FROM A70 SOUTH EAST OF BELSTON TO COUNCIL BOUNDARY SOUTH OF LAIGH DALMORE SOUTH AYRSHIRE KA6 5JR
DESCRIPTION:	APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR INSTALLATION OF A BATTERY ENERGY STORAGE SYSTEM AND ASSOCIATED INFRASTRUCTURE WITH A GENERATING CAPACITY OF UP 150MW
RECOMMENDATION:	Object to the proposal unless the conditions set out in the appendix are imposed in their entirety or that suitable alternative conditions are agreed in writing between the energy consents unit and the planning authority.

1 Purpose of Report

- 1.1. South Ayrshire Council has been consulted by The Scottish Government, under Section 36 of The Electricity Act 1989, on an application by Energy Consents Unit for Application for consent under Section 36 of the Electricity Act 1989 for installation of a battery energy storage system and associated infrastructure with a generating capacity of up 150MW on land at Belston C2 from the A70 south-east of Belston to the Council boundary south of Laigh Dalmore, KA6 5JR. The site area extends to approximately 3 hectares.
- 1.2. The Council is not the determining authority for this proposal but instead acts as a statutory consultee to the Section 36 application process. This report sets out the response to the Scottish Government's consultation which was issued on the 28 November 2024. An extension of time has been agreed with the ECU for the Council to provide its consultation response by **5th April 2025**.
- 1.3. Under the Council's Scheme of Delegation, all Section 36 consultation responses prepared by the Council require to be referred to the Regulatory Panel (Planning).
- 1.4. Under the Electricity Act 1989, Schedule 8, Part 2, Paragraph 2 (a), where the relevant Planning Authority notifies the Scottish Ministers that they object to the application and their objection is not withdrawn, the Scottish Ministers shall cause a public inquiry to be held.
- 1.5. On the basis that a Planning Authority were not to respond by the agreed date (**5th April 2025**) then there is no mandatory requirement for a public inquiry to be held.

2 Recommendation

2.1 It is recommended that the Regulatory Panel:

- Submits this report to The Scottish Government Energy Consent Unit as a position of **objection** on behalf of the Planning Authority to the Section 36 application for the proposed development (ECU Reference: ECU00005141) **unless the conditions set out in the appendix below are imposed in their entirety or that suitable alternative conditions are agreed in writing between the Energy Consents Unit and the Planning Service.** Members should note that if the Scottish Ministers choose not to impose some or all of the conditions this should trigger a Public Local Inquiry to be held before a final decision can be reached.
- Approves delegated authority to officers of the Planning Service to conclude planning conditions with the Scottish Government Energy Consents Unit, in writing, should the Scottish Ministers be minded to grant consent under Section 36 of the Electricity Act 1989 and deemed planning permission pursuant to Section 57 (2) of the Town and Country Planning (Scotland) Act 1997.

3 Background and Procedural Matters

Consenting

- 3.1 On 28th November 2024, KX Power Alpha I Ltd submitted an application under Section 36 of the Electricity Act 1989 seeking deemed planning permission pursuant to Section 57 (2) of the Town and Country Planning (Scotland) Act 1997 for the construction and operation of a Battery Energy Storage System (BESS) and associated infrastructure on land at Belston Holdings, with the main body of the site being located approximately 250m north-east of the A70 at the junction with an unclassified road, South Ayrshire.
- 3.2 The proposed development will include Battery Energy Storage System (BESS) of up to 150MW together with associated infrastructure including perimeter fencing, access tracks, grid compound and grid related infrastructure.
- 3.3 The capacity of the site is proposed to be in excess of 50MW and as such, the proposed development requires an application to Scottish Ministers under Section 36 of the Electricity Act 1989.
- 3.4 Under Section 36 of the Electricity Act, if a proposal is approved, it will also receive deemed planning consent.

Environmental Impact Assessment (EIA)

- 3.5 The proposed development requires to be screened by the Scottish Ministers in accordance with Regulation 7 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the Regulations"). Following a request for a screening opinion made under Regulation 8(1), Scottish Ministers are required to adopt an opinion as to whether the proposed development constitutes EIA development.
- 3.6 The Regulations set out at 8(2) the information that must accompany a request to the Scottish Ministers to adopt a screening opinion. Regulation 10 requires that the Scottish Ministers must seek that information if it is not included within the application documentation. Scottish Ministers consider that the information included in the screening request and documents supporting the request is sufficient to meet the requirements set out in Regulation 8(2), and that the submitted information has been compiled, taking into account the selection criteria in schedule 3 of the Regulations.
- 3.7 On 2nd August 2023, the applicant submitted a request that Scottish Ministers adopt a screening opinion as to whether the proposed development required the preparation and submission of an Environmental Impact Assessment ("EIA") report. On 26th September 2023, Scottish Ministers confirmed, pursuant to the provisions of the Electricity Works (EIA) (Scotland) Regulations that the submission of an EIA report was not required.

EIA Screening Opinion - ECU00004885 (ECU Reference) and 23/00610/EIASCR (Council Reference)

- 3.8 Under Regulation 8(5) of the Regulations, Scottish Ministers are required to consult the Planning Service within whose land the proposed development is situated. The Planning Service was consulted on 14th August 2023 and responded on 23rd August 2023 advising that, in their opinion, the proposed development does not constitute an EIA development.
- 3.9 The Planning Service EIA Screening Opinion Consultation Response to the ECU concluded that taking into account the submitted screening report, the proposed development is not likely to result in effects on the environment which are sufficiently significant to require the submission of an EIA Report
- 3.10 On 26th September 2023, the ECU issued their EIA Screening Opinion response as determining authority which confirmed that they do not consider the proposed development to constitute an EIA development and the application submitted for this development does not require to be accompanied by an EIA report.
- 3.11 In reaching their decision, Scottish Ministers have taken the selection criteria in Schedule 3 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and all the information submitted in respect of the screening request into account and have also taken account of the views of the Planning Service.

4 Development Proposal

- 4.1 The proposed development comprises a Battery Energy Storage System (BESS) of up to 150MW together with associated infrastructure including perimeter fencing, access tracks, grid compound and grid related infrastructure.
- 4.2 In greater detail, the proposal includes the following elements:
- 117 Battery Containers – 6.06m x 2.43m x 2.89m
 - Power Control System Units – 12.15m x 2.43m x 2.9m
 - HV Switchroom Building – 17m x 3m x 3.1m
 - Low Voltage Substation – 7.5m x 3m x 3.3m
 - Control Room Building – 7.5m x 3m x 3.3m
 - Auxiliary Transformer – 4.7m x 3.8m x 2.37m
 - Welfare Building – 7.5m x 3m x 3.3m
 - Spares Container – 12.15m x 2.4m x 2.56m
 - Palisade Security Fencing – 2.4m high – metal
 - Acoustic Fencing – 3m high – timber
 - National Grid Substation Compound – Approximately 40m x 37m, highest grid related element at 4.6m
 - Water tank – 4m in height
 - 275/33kv Transformer – Overall size of compound 13m x 8m, highest element at 8m.
- 4.3 The purpose of BESS is to absorb and store excess electricity from the grid during times when renewable generation is higher than demand (e.g. in the middle of the night when it's windy) and discharge stored electricity when demand upon the grid is high.

5 Application Site

- 5.1 The site is located on land to the north east of the A70 at Belston approximately 2.6km to the east of the town of Ayr and consists of two even sized pastoral fields totalling approximately 3 hectares in area, enclosed on all sides by established hedgerows, which have gaps in places and contain mature trees in others. A small stream runs parallel to the western site boundary and a minor road along its southern extent. From a highpoint of approximately 48m AOD in the eastern corner of the site, the land very gently slopes towards the northwest to a point of 41m AOD. The site would be accessed via an unclassified road.
- 5.2 The site is surrounded by predominantly open countryside and this comprises of mainly agricultural land with mature tree belts and hedgerows, particularly elevated in nature to the east. There are several overhead electricity power lines in the area and there is a section of hedgerow which divides the site into two parcels of land, with it being stated within the submission that there is no intention to remove.
- 5.3 The nearest residential properties are known as 1 – 5 Belston Holdings, ranging from between 150m to 265m to the northwest of the site. No. 3 Belston Holdings is owned and occupied by the landowner of the application site. A property named Lyndale is located approximately 185m to the east of the site.

Environmental and Cultural Designations

- 5.4 There are no environmental designations within the site.
- 5.5 Martnaham Loch and Wood SSSI is located within 2.9km southeast of the site.
- 5.6 Four Provisional Local Wildlife Sites (PLWS) are present within 2km of the application site (River Ayr (Craigie Park to Mainholm) is located approximately 1.2km to the northwest, River Ayr (Oswald Bridge to Tarholm Bridge)/Auchincruive Marsh is located approximately 1.4km to the north, Water of Coyle (River Ayr to Cushats) is located approximately 1km to the northeast and Gadgirth is located approximately 1.9km to the northeast).
- 5.7 There is no ancient woodland identified within or immediately adjacent to the site.
- 5.8 The closest listed building to the application site is the category B listed Sundrum Mains, located approximately 2.2km to the east.

6 Consultation

- 6.1 As a Section 36 application, consultation on the proposed development is primarily led and undertaken by The Scottish Government (Energy Consents Unit - ECU), on behalf of Scottish Ministers - the determining authority. The following consultation responses received by the ECU (set out below - not including public comments received from any interested parties) are noted for informative purposes.
- 6.2 The Council as Planning Authority also undertakes consultation with internal Council departments/services and other relevant stakeholders/statutory consultees, the responses received are summarised below.
- 6.3 These responses are considered in the assessment of the proposed development and have informed the Planning Service's overall recommended consultation response.

ECU Consultees

- 6.4 **Transport Scotland, SGN, Scottish Water, NATS, Health and Safety Executive, BT, Historic Environment Scotland and the Office for Nuclear Regulation (ONR)** either have no objection to the proposed development or have no comment to make.
- 6.5 **SEPA** have issued a **holding objection** due to a lack of information in relation to flood risk. The submitted Flood Risk and Drainage Assessment primarily examines surface water and groundwater flood risk to the site. Bespoke hydrological and hydraulic modelling should be conducted in order to assess the level of fluvial flood risk posed to the site from the small watercourse within the site and drainage channels. This is a matter for the applicant to address and the ECU to consider in their assessment of the proposals.

South Ayrshire Council Internal Consultees

- 6.6 **ACCON UK (Noise Consultant)** – no objection subject to conditions.
- 6.7 **Douglas Harman – Landscape Advisor and Consultant** - no objection subject to conditions.
- 6.8 **AECOM (Ecological and Biodiversity Consultant)** – no objection subject to conditions.
- 6.9 **Ayrshire Roads Alliance (ARA) including ARA as Flooding Authority** – object due to supporting information being insufficient to allow the Ayrshire Roads Alliance (Flooding) to fully assess both the implications with respect to flood risk and the identification and review of a suitable scheme of mitigation. The flood risk assessment has not assessed the flood risk from the small watercourse on the western boundary of the application site which is not included in the SEPA flood maps due to it having a catchment of less and 3km².
- 6.10 **Council's Environmental Health Service** – no objection subject to submission of Noise Impact Assessment. EH were advised that a Noise Assessment formed part of the s36 application submission; however, no further response has been received.
- 6.11 **Council's Landscape Officer** – no objection.
- 6.12 **West of Scotland Archaeology Service (WoSAS)** – no response.

7 Planning History

7.1 The following recent planning history (since January 2000) is applicable to the application site:

- 09/01338/PPP – Erection of agricultural dwellinghouse – Refused February 2010.
- 10/00613/PNF – Prior notification for erection of livestock housing – Permitted July 2010

8 Development Plan

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

National Planning Framework 4 (NPF4)

- 8.5 NPF4 confirms that the purpose of planning is to manage the development and use of land in the long-term public interest. NPF4 also maintains a plan-led system and provides a long-term spatial strategy to 2045 based around enabling the transition to net zero emissions and environmental sustainability; driving inclusive economic growth; and building resilient and sustainable places, which adapt to the impacts of climate change, whilst protecting, recovering and restoring our environment. The provisions of NPF4 must, however, be read and applied as a whole, and as such, no policies should be read in isolation.
- 8.6 The primary policy considerations against which the proposed development will be assessed against are NPF4 Policies 1 (Tackling the climate and nature crisis), 2 (Climate mitigation and adaption), and 11 (Energy).
- 8.7 Other NPF4 policies of relevance are outlined below and can be viewed in full at <https://www.gov.scot/publications/national-planning-framework-4/>.
- Policy 3 – Biodiversity
 - Policy 4 – Natural Places
 - Policy 6 – Forestry Woodland and Trees
 - Policy 13 – Sustainable Transport
 - Policy 14 – Design, Quality and Place
 - Policy 22 – Flood Risk and Water Management
 - Policy 23 – Health and Safety

South Ayrshire Local Development Plan 2 (LDP2)

- 8.8 The following policies of LDP2 are considered relevant to the assessment of the application, and can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx>.
- LDP Policy Spatial Strategy
 - Strategic Policy 1: Sustainable Development
 - Strategic Policy 2: Development Management
 - LDP Policy: Landscape Quality
 - LDP Policy: Woodland and forestry
 - LDP Policy: Preserving Trees
 - LDP Policy: Water Environment
 - LDP Policy: Flooding and Development
 - LDP Policy: Agricultural Land
 - LDP Policy: Air, Noise and Light Pollution
 - LDP Policy: Renewable Energy
 - LDP Policy: Natural Heritage
 - LDP Policy: Land Use and Transport
- 8.9 As per NPF4, the provisions of LDP2 must be read and applied as a whole and as such, no single policy should be read in isolation. The application has been considered in this context and alongside NPF4 as the Development Plan.

9 Assessment

9.1 This report is structured to assess the relevant and comparable policies within NPF4 and LDP2 together and to assess any that are only in one part of the Development Plan separately. As NPF4 is the most recent Development Plan document, its policies are used as the primary considerations and structure for the assessment, with the relevant LDP2 policies also assessed.

9.2 Having regard to the Development Plan, the key considerations are identified as follows:

Sustainable Places

9.3 Both NPF4 and LDP2 actively promote sustainable development practice through the creation of sustainable places that respect the environment and are designed to mitigate and adapt to the impacts of climate change.

9.4 Tackling the climate and nature crises, through climate mitigation and adaptation, is a fundamental requirement of the Development Plan:

- **NPF4 Policy 1 – Tackling the climate and nature crises:** This policy states that when considering all development proposals, significant weight will be given to the global climate and nature crises.
- **NPF4 Policy 2 – Climate mitigation and adaptation:** Seeks to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.
- **LDP Strategic Policy 1 – Sustainable Development:** Supports the principles of sustainable development by making sure that development meets the following standards (of relevance) set out within the policy:
 - a. Respects, protects and where possible, enhances natural, built and cultural heritage resources.
 - b. Protects and safeguards the integrity of designated sites.
 - c. Protects peat resources and carbon rich soils.
 - d. Does not have a negative effect on air or water quality.
 - e. Respects the character of the landscape and the setting of settlements.
 - f. Respects, and where possible contributes to the Central Scotland Green Network.
 - g. Makes efficient use of land and resources.
 - h. Helps mitigate and adapt to the effects of climate change.
 - i. When considering development proposals, due weight will be given to the consideration of net economic benefit.

9.5 Scottish Government policy, commitments and targets for renewable energy are set out in ministerial statements, key policy documents and statutes, namely, The Scottish Governments Declaration of Climate Emergency (2019), the emissions reductions targets set out in the Climate Change (Emission Reduction) (Scotland) Act 2019, The Scottish Energy Strategy (December 2017), and the Scottish Climate Change Plan 2018 to 2032 (2020 updated).

9.6 Furthermore, the Draft Energy and Strategy and Just Transition Plan was published in January 2023. One of the key ambitions set out within this strategy is *“Energy security through development of our own resources and additional energy storage”*. The strategy outlines the importance of BESS and states: *“We urge the UK Government to make ancillary markets more accessible for Battery Energy Storage Systems (BESS) and other low carbon technologies ahead of fossil fuel powered alternatives”*.

9.7 There is a clear policy emphasis at all levels towards tackling the climate crisis, with a strong drive towards green energy and reduction of carbon. NPF4 Policy 1 sets out that significant weight must be given to tackling the climate and nature crises and thereby, proposals which support these objectives, would have significant support.

9.8 NPF4 Policy 2 also sets out that any development should be sited and constructed in a way to minimise lifecycle greenhouse gases. These aims need also be put in the context of sustainable development which aims to ensure that development is carried out sustainability without significant detrimental impacts which would outweigh the development’s positives and carbon reduction benefits. Strategic Policy 1 (Sustainable Development) of the LDP2 sets out criteria in this regard. NPF4 puts forward a presumption in favour of development which will help tackle the climate and nature crises, but this must be balanced against any significant detrimental impacts of a development which may outweigh these positives.

9.9 The supporting information submitted with the application sets out that the BESS will have a capacity of up to 150MW. This will help meet the Scottish Government’s renewable energy generation targets.

- 9.10 It is considered that the proposed development would comply with NPF4 Policies 1 and 2 as it would assist in tackling the climate crisis and would have a positive effect in terms of greenhouse gas emission reduction targets.
- 9.11 In terms of LDP2 Strategic Policy 1, it is considered that the proposed development meets the criteria specified within the policy. Detailed assessment against the specific applicable criteria within this policy are set out within other sections of the report. There is a notable overlap between the criteria of LDP Strategic Policy 1 and NPF4 Policy 11 (Energy), therefore these matters will be discussed in appropriate sections below to avoid unnecessary repetition.

Renewable Energy

- 9.12 In addition to NPF4 Policies 1 (Tackling the climate and nature crisis) and 2 (Climate mitigation and adaption), Policy 11 (Energy) is the most relevant policy to the consideration of the proposed development. This policy highlights a key focus on the encouragement, promotion and facilitation of all forms of renewable energy development in both onshore and offshore environments and provides criteria for the assessment of proposals for renewable development, which, alongside corresponding criteria from LDP2 will form the main structure of the assessment of the proposal presented below.
- 9.13 NPF4 Policy 11 states:
- a) *Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:*
 - i. wind farms;*
 - iii. energy storage, such as battery storage;*
 - vii. proposals including co-location of these technologies.*
 - b) *Development proposals for wind farms in National Parks and National Scenic Areas will not be supported.*
 - c) *Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.*
 - d) *Development proposals that impact on international or national designations will be assessed in relation to Policy 4.*
 - e) *In addition, project design and mitigation will demonstrate how the following impacts are addressed:*
 - i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;*
 - ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;*
 - iii. public access, including impact on long distance walking and cycling routes and scenic routes;*
 - iv. impacts on aviation and defence interests including seismological recording;*
 - v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;*
 - vi. impacts on road traffic and on adjacent trunk roads, including during construction;*
 - vii. impacts on historic environment;*
 - viii. effects on hydrology, the water environment and flood risk;*
 - ix. biodiversity including impacts on birds;*
 - x. impacts on trees, woods and forests;*
 - xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;*
 - xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and*
 - xiii. cumulative impacts.*

In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible.
 - f) *Consents for development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity.*
- 9.14 The proposal is assessed against the above criteria below, alongside any other relevant Development Plan policies.

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

- 9.15 The proposed development is for energy storage (BESS) battery storage system and is therefore considered compliant with Criteria (a).
- 9.16 The proposed development is not for a windfarm and the site is not located within a National Park or National Scenic area. Criteria (b) is therefore not applicable.

Criteria (c) - Socio-economic impact

- 9.17 Criteria (c) details that development is only supported if it maximises net economic impacts, including local and community socio-economic impact benefits and supply chain benefits.
- 9.18 The information submitted to the ECU is limited and generic in this regard; however, direct employment opportunities will result in regard to civil engineering firms and electrical contractors who will be responsible for installing and constructing the scheme. There would also be indirect economic benefits in regard to accommodation provision for the workforce and other areas such as local shops and businesses benefitting from footfall. There is also the potential that local suppliers of building materials and equipment hire will experience an increase in demand during the construction programme. The proposed development is therefore compliant with Criteria (c).

Criteria (d) – International and National Designations

- 9.19 This states that Development Proposals that impact on international or national designations will be assessed in relation to NPF4 Policy 4 (Natural Places).
- 9.20 The other relevant Development Plan policies include:
- LDP2 Policy: Natural Heritage – This states that Development, either individually or in combination with other plans or projects, which is likely to have a significant effect on a designated or proposed European Sites will be subject to an appropriate assessment of the implications for the site in view of the site's conservation objectives.
- 9.21 The site is not subject to any national or international designations.
- 9.22 Martnaham Loch and Wood SSSI is located within 2.9km southeast of the site. Owing to the lack of ecological connectivity between the site and this SSSI, there is unlikely to be any adverse impact on the SSSI as a result of this proposal.
- 9.23 As such, the proposed development is in accordance with Criteria (d).

Criteria (e) – Project Design and Mitigation

- 9.24 Criteria (e) requires that project design and mitigation demonstrate how a number of potential impacts that will occur due to the proposed development will be addressed. In considering these impacts, significant weight will be placed on the contribution of the proposed development to renewable energy generation targets and on greenhouse gas emissions reduction targets.
- 9.25 This aligns with the broader policy intentions of LDP2 which supports renewable energy development provided they do not result in harmful effects on the environment.
- 9.26 It should be noted that the NPF4 policy 11(e) criterion does not specifically state that if any of the detailed impacts are not fully addressed, then that proposal should be deemed unacceptable, only that it must be demonstrated how the applicant has sought to address these impacts through design and mitigation.

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

9.27 Criteria e (i) requires demonstration of how impacts on communities and individual dwellings, including residential amenity, visual impact, noise and shadow flicker are addressed.

9.28 The following LDP policies are also applicable:

- NPF4 Policy 23 (Health and Safety) - Development proposals that are likely to have significant adverse effects on air quality or are likely to raise unacceptable noise issues will not be supported.
- LDP Policy: Sustainable Development - We will support the principles of sustainable development by making sure that development meets the following relevant standards: Does not have a negative effect on air or water quality and respects the character of the landscape and the setting of settlements.
- LDP Policy: Air, Noise and Light Pollution - We will not allow development which would expose people to unacceptable levels of air, noise or light pollution.

Visual Impact (Communities and Individual Dwellings)

9.29 It is recognised that the proposed development would result in a visual change to the current predominately rural and agricultural landscape in which the site is located. However, although the site lies outside of the settlement boundary of Ayr in open countryside, its current character is subject to urbanising influences, including powerlines and the busy A70 carriageway.

9.30 There are several residential dwellings located within approximately 1km from the application site and as these are located on higher ground to the north, east and west, it is very likely that from some rooms and open curtilage that the proposed development would appear noticeable during the early years of mitigation establishment. Having an industrial appearance, the rows of battery containers and associated infrastructure would occupy a moderate proportion of their view, with a stark contrast to the surrounding visual composition of pastoral fields. As such, it is likely that more significant effects would be experienced during the early years of operation, although when mitigation planting begins to mature (approximately year 10), the effects on views of most, if not all residents, are not likely to be significant.

9.31 The RVAA Technical Guidance Note (2019) published by the Landscape Institute provides best practice guidance for assessing private views and private visual amenity. The RVAA threshold is referred to as the effect of the development on Residential Visual Amenity being of such nature or magnitude that it potentially affects living conditions or Residential Amenity. The RVAA Technical Guidance Note states that the threshold at which a residential property's visual amenity becomes an issue of residential amenity has sometimes been described as the point when "the effect(s) of the development on the 'private interest' is so great that it becomes a matter of 'public interest'".

9.32 The extent of this impact is not considered to breach the Residential Visual Amenity Threshold and would not be so significant as to be unacceptable, particularly when weighted against the benefits of renewable energy in tackling the climate crisis.

Noise

9.33 A Noise Impact Assessment has been submitted which describes potential noise effects on key receptors during the operational phase of the proposed development.

9.34 The report confirms that the proposed development can meet criteria derived using BS4142 (a British Standard that describes the procedures and methods for measuring and assessing noise), such that during operation, noise impacts will not be significant.

9.35 The Council's independent Noise Consultant (ACCON UK Limited) have advised that the methodologies used in the Noise Impact Assessment are in compliance with guidance given in BS 4142:2014+A1:2019 and consider that there would be no over-riding reason for refusal in the respect of noise. It is therefore considered that noise generated from the proposed development would not result in significant impacts that would compromise the amenity of the surrounding residential properties and environments.

Shadow Flicker and Glint and Glare

9.36 Not applicable to the development proposal under consideration.

Light Pollution

- 9.37 In relation to lighting, as is summarised within the Planning Statement, to limit the amount and extent of light spread within the site and onto adjacent areas, it is stated that lighting would be kept to an absolute minimum. Bulkhead light fittings would be placed above door entrances to the various grid component and control buildings. These would be fitted with motion sensors and would only operate in order to allow maintenance personnel to carry out their tasks.
- 9.38 There is also a requirement to install column lighting within the National Grid substation compound, as stipulated by the National Grid. The column lighting would be approximately 4.7m in height and would be located at the four corners of the substation compound. This lighting would only be activated in the event of an emergency such as a power failure.
- 9.39 The Council's Environmental Health Service have been consulted but did not make any comments in relation to light pollution.
- 9.40 It is considered that the lighting generated from the proposed development would not result in significant impacts that would compromise the amenity of the surrounding residential properties and environments.

Conclusion – impacts on Communities and individual dwellings.

- 9.41 For the reasons outlined above, the proposed development is considered to accord with the relevant Development Plan policies in relation to impact on communities and individual dwellings.

Criteria e (ii) - Landscape and Visual Impact

- 9.42 Criteria e (ii) requires demonstration of how significant landscape and visual impacts are addressed, recognising that such impacts are to be expected for some forms of renewable energy. The policy also states that where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered acceptable.
- 9.43 The other relevant policies are:
- NPF4 Policy 4 (Natural Places): Criteria (a) states that development proposals by virtue of type, location or scale that will have an unacceptable impact on the natural environment, including landscape impacts, will not be supported.
 - NPF4 Policy 29 (Rural Development): Development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area.
 - LDP2 Strategic Policy 2 (Development Management): States that the Council will ensure that development proposals meet several requirements, including not having an unacceptable impact on the amenity of nearby land uses, or committed development proposals (with Planning Permission or allocated LDP development sites).
 - LDP2 Policy Landscape Quality: aims to maintain and improve the quality of South Ayrshire's landscape and its distinctive local characteristics. Proposals for development must conserve features that contribute to local distinctiveness, including:
 - a. *Community settings, including the approaches to settlements, and buildings within the landscape;*
 - b. *Patterns of woodland, fields, hedgerow and tree features;*
 - c. *Special qualities of river, estuaries and coasts;*
 - d. *Historic and cultural landscape;*
 - e. *Geodiversity of the area;*
 - f. *Skylines and hill features, including prominent views.*
- 9.44 A Landscape and Visual Appraisal (LVA) has been submitted in support of the application. A description of the application site has been outlined elsewhere within this report. Forming a key feature of the Ayr Valley Local Landscape Area, the River Ayr meanders across the northern part of the study area within an incised valley.

- 9.45 In relation to landscape character, the site is located within the Agricultural Lowlands landscape character type (LCT), with the following key characteristics being evident in the site's locality:
- Complex landform, gently increasing in height from the coastal fringe, dissected by many burns and streams draining to incised main river valleys to create an undulating lowland landscape.
 - Generally small to medium scale landscape.
 - Landcover is predominantly pastoral, with some arable on lower and better soils.
 - Fields often regular in shape and enclosed by beech or hawthorn hedges, with mature hedgerow trees giving the landscape a surprisingly wooded character.
 - Settlement pattern historic in origin based upon larger, more self-contained farmsteads set in a hinterland of fields.
 - Several major road corridors creating a degree of conflict between the rural character and presence of heavy traffic.
 - Dense network of often very rural minor roads.
 - Views tend to be dictated by the local topography and landcover.
- 9.46 Primarily, the proposed development would substantially alter the existing rural character of the site to one with an industrial appearance. However, there would be a relatively minimal alteration to the gently sloping landform and with occupying two medium sized fields, the scale of development would not overwhelm the landcover pattern. Existing field boundaries and associated trees would also be protected and enhanced.
- 9.47 The Councils' external landscape advisor outlines that in considering effects on landscape character, it is important to recognise that the likely visibility of the proposed development is quite localised. As illustrated the applicant's zone theoretical visibility analyses, the extent of visibility (taking into account the screening effects of intervening woodlands and built development) is largely restricted to most of the landscape within approximately 1 km from the site, relatively small areas of higher ground beyond 1 km to the north-west and a few very small areas to the south-east. As such, only a very small part of the Agricultural Lowlands LCT would be affected and an even smaller part of the Lowland River Valleys LCT to the north.
- 9.48 Although the local landscape exhibits a prevailing rural character, there are a number of land uses and built developments that detract from its prevailing rural character. These include the busy A70, large transmission pylons, coniferous forestry plantations, and some very large modern agricultural barns. Consequently, the introduction of the proposed development would not be entirely uncharacteristic to the local landscape, particularly considering the prominent presence of nearby pylons.
- 9.49 Especially during summer months, the proposed landscape mitigation measures would also offer further screening and although these would not offer total screening once mature, the perimeter hedge, tree and woodland planting would provide a relatively robust landscape framework to help integrate the proposed development into the landscape.
- 9.50 In light of the above, the Council's external landscape advisor concluded that most of the key characteristics would remain largely unaffected and where any adverse changes would be evident, these would be very localised and not detrimental to the character and quality of the LCT as a whole, therefore no significant landscape character effects are predicted.
- 9.51 The Ayr Valley Local Landscape Area (LLA) is located approximately 1 km from the site at its closest point and as illustrated in the applicant's ZTV analyses, only very small parts, largely confined to isolated areas of higher ground, would subject to views of the proposed development. Given the presence of intervening pylons and the relatively modest scale of the proposed development, it is very unlikely that the qualities of the LLA would be noticeably affected, especially during the longer term once mitigation planting matures. Consequently, no significant effects on the LLA are predicted.
- 9.52 As with landscape effects, the screening effects of the undulating landform, as well as intervening vegetation and built development, would tend to restrict actual visibility of the proposed development to localised parts of the landscape within approximately 1 km from the site. Road users on the A70 are likely to experience significant static visual effects during the early years of operation, although when travelling the road at speed, the proposed development would only be visible along a very short stretch of the carriageway (approximately 250m). Given the very short duration of visibility therefore, effects overall are judged to be not significant, especially when intervening mitigation planting matures. From a short section of Core to the north of the site, the proposed development would not appear prominent or detract from important views or visual features. It would also tend to be viewed in context of a composition of intervening large pylons and large agricultural barns in the wider view. As outlined within criteria e(i) above, the impact is not considered to be significant.

Conclusion on Landscape and Visual Impact

9.53 Only a small part of the landscape would be affected and although effects on the views of some nearby residents are likely to be significant during the early years of operation, the proposed mitigation planting should help to reduce or eliminate any longer term significant effects. It is considered that the proposed development:

- conserves landscape character, and the associated cultural, natural and perceptual key characteristics of the Agricultural Lowlands LCT;
- does not noticeably detract from the qualities of any Local Landscape Areas;
- protects important views, skylines and landmarks, particularly those to and from the nearby surrounding hills; and
- demonstrates sensitive siting and design and is at a scale that is proportionate to the surrounding landscape.

9.54 It is therefore considered that the proposed development is compliant with the relevant Development Plan policies identified.

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

9.55 Criteria e (iii) requires consideration of the impact on long distance walking and cycling routes and scenic routes.

9.56 The following Development Plan policies are also relevant:

- NPF4 Policy 13 – Sustainable Transport - Seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably;
- LDP2 Policy: Land Use and Transport – Development proposals should link to existing and proposed active travel networks, including walking, cycling and public transport networks; and
- LDP2 Policy: Outdoor Access and Public Paths – Aims to improve and protect all core paths and other significant access routes - including recognised rights of way, disused railway lines (e.g The Culzean Way), riverside walkways, wind farm access tracks and cycleways and cycle parking facilities.

9.57 The site does not have any core paths or recorded rights of way within or immediately adjacent to it.

9.58 The site is in a sustainable location in terms of accessibility, there is a footway on the northern side of the A70 which extends from Holmston Roundabout into the settlement of Coylton. There are also frequent bus services which operates along the A70.

9.59 There are no dedicated cycle routes within or near the site. The proposed development will have no impact on any existing pedestrian or cycle routes within or near the site.

9.60 For the reasons outlined, the proposed development is therefore considered to comply with NPF4 Policy 11 Part (e) (iii) in addition to the other relevant policies identified.

Criteria e (iv) – Impacts on aviation and defence interests including seismological recording.

9.61 Criteria e (iv) requires applicants to set out how the project design and mitigation will address impacts on aviation and defence interests including seismological recording. This is an element outwith the remit of the Council as Planning Authority in respect of this s36 consultation.

9.62 However, NATS Safeguarding (whose interest relates to safeguarding aerodromes, radar, navigation aid installations and flight procedures/routes) were consulted by the ECU and have stated that the proposed development does not conflict with any safeguarding criteria and therefore have no objections to the proposed development.

9.63 There is no consultation response listed on the Energy Consents Unit website from Glasgow Prestwick Airport. This is for the ECU to address.

Criteria e (v) – Impacts on telecommunications and broadcasting installations.

- 9.64 Criteria e (v) states that it should be set out how the project design and mitigation will address impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised. Once again, this is an element outwith the remit of the Council as Planning Authority in respect of this s36 consultation.
- 9.65 Notwithstanding, BT were consulted by the ECU and have no objection, stating that the proposed development should not cause interference to BT's current and presently planned radio network in the surrounding area.
- 9.66 The proposed development is therefore considered to comply with criteria e (v).

Criteria e (vi) – Impacts on road traffic and on adjacent trunk roads, including during construction.

- 9.67 Access to the site is proposed via two points located along the unclassified road, with the main access being located at the south-western corner of the site. The access road to the proposed development would lead to internal site access tracks providing access throughout the site. The secondary access is located centrally along the site frontage onto the unclassified road and would be used for emergency access only.
- 9.68 The Ayrshire Roads Alliance (ARA) – Roads and Transportation have been consulted by the Council and have no objection to the proposal in respect of the impacts on road traffic and on adjacent trunk roads, subject to the imposition of conditions including in relation to inter-visible passing places, junction visibility splay requirements, access construction requirements, prevention of water discharge onto the public road, the location and function of gate and a Construction Traffic Management Plan (CTMP).
- 9.69 Transport Scotland (TS) have also been consulted by the ECU and state that they have no objection to the proposal.
- 9.70 Overall, it is therefore considered that the proposed development would meet the intent of LDP2 and NPF4 policies in relation to transport.

Criteria e (vii) – impacts on Historic Environment

- 9.71 Criteria e (vii) requires demonstration of how any impact on the historic environment will be addressed.
- 9.72 The other relevant policies are:
- NPF4 Policy 7 (Historic Assets and Places) - Aims to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places;
 - LDP2 Policy: Historic Environment – Aims to protect, preserve and, where appropriate, conserve and / or enhance South Ayrshire's historic environment; and
 - LDP2 Policy: Archaeology - Development proposals that do not safeguard archaeological sites or resources in situ will not be supported unless it is demonstrated to the satisfaction of the Council that the benefit of the proposal outweighs the archaeological value of the site.
- 9.73 There are no designated heritage assets on the site, or within 2km of the application site whose setting / significance would be adversely affected by the proposed development.
- 9.74 The West of Scotland Archaeology Service (WoSAS) were consulted on the development proposal; however, no response has been received at the time of writing this report.
- 9.75 Historic Environment Scotland (HES) have been consulted by the ECU and had no comments given that the proposed development does not have an impact on designated features.
- 9.76 It is therefore considered that the historic environment will be preserved and that the proposed development complies with Policy 11 part (e) (vii).

Criteria e (viii) – Effects on hydrology, the water environment and flood risk

- 9.77 Criteria e (viii) requires proposals to demonstrate how effects on hydrology, the water environment and flood risk are addressed.
- 9.78 The other relevant Development Plan policies are:
- NPF4 Policy 22 (Flood risk and water management) - seeks to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.
 - LDP2 Policy (Water Environment) – The Council supports the objectives of the Water Framework Directive (2000/60/EC). We will only allow development that meets these objectives and shows that:
 - a. It will protect, and where possible, improve the water environment;
 - b. It will not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water);
 - c. It will not harm the biodiversity of the water environment;
 - d. It seeks to avoid (or remove) instances of construction works and structures in and around the water environment; and
 - e. It provides an appropriately sized buffer strip between the development and a water course.
 - LDP2 Policy: Flood and Development - development should avoid areas which are likely to be affected by flooding or if the development would increase the likelihood of flooding elsewhere. We will assess development proposals against the Scottish Environmental Protection Agency's (SEPA) publication 'Flood Risk and Land use Vulnerability Guidance' (2018), or subsequent updates.
- 9.79 A Flood Risk Assessment (FRA) has been submitted in support of the application. It concludes that the development site is not at any direct risk of fluvial or tidal flooding but that the site is at risk of surface water flooding, therefore this has been noted within the design of the drainage. It is outlined that the development area is not within an area at risk of tidal or fluvial flooding and as such the FRA has focused on reducing the risks associated with surface water runoff.
- 9.80 Ayrshire Roads Alliance as the Council's Flooding Authority have been consulted and offer a **holding objection** due to the fact that the FRA has not assessed the flood risk from the small watercourse on the western boundary of the development site which is not included in the SEPA flood maps because it has a catchment of less than 3Km². This requires to be done for a full understanding of the flood risk for this site. This assessment also needs to be carried out to the satisfaction of SEPA. The flood risk assessment has a focus on surface water flooding and is proposing the use of Sustainable Urban Drainage Systems (SUDS) to manage this flood risk which is in line with NPF4.
- 9.81 SEPA have been consulted by the ECU and have a **holding objection** to the proposed development due to a lack of information in relation to flood risk. The submitted Flood Risk and Drainage Assessment primarily examines surface water and groundwater flood risk to the site. Bespoke hydrological and hydraulic modelling should be conducted in order to assess the level of fluvial flood risk posed to the site from the small watercourse within the site and drainage channels.
- 9.82 The ECU have also formally consulted Scottish Water. The response states that there are no Scottish Water drinking water catchments or abstraction sources in the area that may be affected by the proposal and state that for reasons of sustainability and to protect their customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into their combined sewer proposal.

Conclusion on Hydrology, Water Environment and Flood Risk

- 9.83 Due to the holding objection on flood risk grounds issued by both SEPA and the ARA (as Council Flooding Authority), the proposed development is not currently considered to be compliant with Policy 11 criteria (e) (viii) or the other referenced Development Plan policies.
- 9.84 However, the Planning Service does not consider it appropriate to raise an objection to the proposed development solely on flood risk grounds, as this issue can potentially be resolved through the submission of additional information by the applicant. Therefore, the Council will defer this matter to SEPA and the ECU, as the determining authority, to engage with the applicant to resolve the issue before a decision is made on the application.

Criteria (e)(ix) Biodiversity including impacts on birds.

- 9.85 This criterion requires demonstration of how impacts on biodiversity including birds are addressed.
- 9.86 The other relevant Development Plan policies are:
- NPF4 Policy 3 (Biodiversity) - Highlights the importance of nature protection, restoration and securing biodiversity enhancements to reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Development proposals for national or major development 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.
 - LDP2 Policy (Natural Heritage) - Planning permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation. Criterion (f) requires development to not have an unacceptably detrimental effect upon natural heritage, including wild land, birds and carbon rich soils.
- 9.87 A Preliminary Ecological Appraisal (PEA) was submitted to the ECU in support of the application. This describes survey results for protected/important habitats and species that occur within and in proximity to the proposed development.
- 9.88 The PEA states that a UK Habitats Classification survey was carried out which identified five primary habitats on site including improved grassland, poor semi-improved grassland, tall herb and fern, standing water (ditches) and hedgerows. Of these, it is stated that the of the most value are the hedgerows and areas of tall ruderal vegetation.
- 9.89 The PEA provides detail of a desk-based search for statutory and non-statutory designated nature conservation sites. However, there does not appear to have been a search carried out for Local Wildlife Sites (LWS). However, the PEA recommends a Pollution Prevention Plan for the construction phase to prevent adverse impacts to the aquatic environment, including the downstream River Ayr and provided such a plan is implemented, the Council's independent Ecology advisors (AECOM) consider that there will be no adverse impacts on any LWS.
- 9.90 No invasive non-native plant species (INNS) were identified within the site itself. However, the survey was carried out in October, and the PEA recommends that an INNS survey is conducted within the optimal survey window (March – September). However, the application does not include the results for any further INNS survey. A pre-construction survey for INNS should be carried out at the appropriate time of year. This can be secured through condition.
- 9.91 Numerous trees within and surrounding the Proposed Development site were assessed as having bat roosting suitability. The PEA states, *"it is understood that the proposed development is not likely to require any tree felling"* and *"the potential impact of the development on trees with potential roost features should be assessed once the layout is available"* and acknowledges the potential requirement for further bat roost survey if potential impacts are identified (such as felling, pruning and disturbance). Clarification is required on whether any trees with bat roosting suitability will be impacted by the proposed development and, if so, we would expect detailed evidence of further survey having been carried out in accordance with the latest BCT guidelines. This can be secured through condition.
- 9.92 No badger setts were identified within the site; however, habitats within the site and surrounds are considered suitable to support badger. Whilst general good practice mitigation measures are presented for badger within the PEA, this does not include a pre-commencement survey for badger. We would expect a pre-commencement survey to be carried out for badger no more than three months before works commencing (including facilitating works such as vegetation clearance), to check for any changes to the baseline conditions. This can be secured through condition.
- 9.93 The PEA provides recommendations for enhancements for biodiversity, including enhancement of retained hedgerows and creation of wildflower meadow and ponds. These recommendations have been incorporated within the Soft Landscape Proposals Plan, with a woodland planting mix also proposed at the site boundaries. The proposed habitats comprise a good mix of native species and are considered by the Council's independent Ecological advisors (AECOM) to be of significantly higher biodiversity value compared with the baseline.

Conclusion on Biodiversity

- 9.94 Based on the consultation comments and subject to the recommended conditions, it is considered that adverse impacts on ecological values can be avoided, remedied or mitigated.
- 9.95 In addition, the proposed development would contribute to significant biodiversity enhancement, improving the current situation by creating new habitats and offering opportunities for increased biodiversity across the site.
- 9.96 The proposed development is therefore considered to be in accordance with the relevant NPF4 and LDP2 biodiversity related policies identified (subject to imposition of the recommended conditions).

Criteria e (x) - Impacts on trees, woods and forests

- 9.97 Criteria e (x) requires demonstration of how impacts on trees, woods and forests are addressed.
- 9.98 The other relevant Development Plan policies are:
- NPF4 Policy 6 (Forestry, woodland and trees) - aims to protect and expand forests, woodland and trees;
 - LDP2 Policy: Preserving Trees - When assessing proposals for development that might involve loss of, or work to trees, we will consider how much it would affect the local area and will take measures to protect trees, especially those covered by a provisional or confirmed Tree Preservation Order. Ancient and veteran trees of high nature conservation and landscape value will be protected; and
 - LDP2 Policy: Woodland and Forestry - We will support proposals for woodland and forestry that are: a. Consistent with the objectives and main actions of the Ayrshire and Arran Woodland Strategy; and b. Sympathetic to the environmental (including landscape and visual impacts), nature and wildlife interests of the area, and, wherever appropriate, provide recreational opportunities for the public. Relevant advice contained within The Scottish Government's Policy on Control of Woodland Removal will be taken into account when determining planning applications.
- 9.99 There is no ancient woodland or semi-natural woodland located within the site, with the closest ancient woodland being located approximately 0.2km to the south on the opposite side of the A70 carriageway.
- 9.100 It is stated within the submitted Planning Statement that the nearby ancient woodland areas have limited ecological connectivity to the application site via existing hedgerows and tree belts. It is also outlined that it is not expected that any trees will be removed as a result of the proposed development.
- 9.101 The Council's Landscape Officer has no objection to the application, subject to implementation and maintenance of the existing and proposed landscape. The comments acknowledged that the site is not covered by any natural heritage or specific landscape designations.
- 9.102 Given that the proposed development will result in the retention of and protection of existing trees and that new tree planting is proposed, the proposal is therefore considered to be in accordance with the relevant NPF4 and LDP2 related policies identified.

Criteria e (xi) – Proposals for the decommissioning of developments, including ancillary infrastructure and site restoration; and

Criteria e (xii) - The quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans.

- 9.103 Criteria e (xii) relates to the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans.
- 9.104 No information appears to have been submitted by the applicant to the ECU in this regard. However, it is considered that site restoration and a decommissioning strategy can be secured by condition.

Criteria e (xiii) – Cumulative impacts

- 9.105 Criteria e (xiii) requires consideration of cumulative impacts.
- 9.106 The proposed development is not considered to introduce any cumulative effects.

- 9.107 Therefore, there is considered to be capacity within the landscape for the proposed development without generating adverse cumulative effects. The proposed development is therefore compliant with Criteria e (xiii).

Policy 11 Conclusion

- 9.108 Policy 11 states that in considering impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets.
- 9.109 Each of the potential environmental impacts have been considered above. Based on the conclusions drawn, there are no significant environmental effects that would warrant the balance to be shifted away from the significant benefit of the proposed development from a renewable energy perspective and contribution to reducing greenhouse gas emissions. This aligns with the intent of NPF4 which seek to address the climate emergency through promoting development that minimises emissions to achieve zero carbon, restore the natural environment and adapts to the current and future impacts of climate change.
- 9.110 In terms of LDP2, a similar conclusion can be reached.
- 9.111 It is considered that effects identified above can be suitably mitigated, whereby adverse effects would not be significant and compliance with the LDP2 policy framework achieved.
- 9.112 The proposed development is therefore considered to accord with the Development Plan, subject to conditions and further information being submitted and assessed by SEPA in respect of flood risk.

10 Other Considerations

Fire Risk

- 10.1 Fire safety and risk in relation to renewable development related proposals is a matter which has been subject to recent discussion at both Scottish Government and Heads of Planning Scotland (HOPS) level. At present, there is uncertainty in terms of its materiality to the Section 36 determination process as there is no government policy position or guidance on this matter.
- 10.2 There is also a Private Members Bill (Lithium-ion Battery Storage (Fire Safety and Environmental Permits) Bill) which is calling for the UK's fire and rescue services to be made statutory consultees regarding planning applications for proposed industry lithium-ion battery storage facilities. This is at First Reading Stage (the first stage of a Bill's passage through the House of Commons).
- 10.3 The ECU consulted The Health and Safety Executive and there is no reference to fire risk within the Health and Safety Executive consultation comments.
- 10.4 Although there is uncertainty in terms of the materiality of fire risk to the Section 36 determination process, it is the view of the Planning Service that a precautionary approach should be taken. This can be reasonably captured through a condition requiring a detailed Battery Fire Safety Management Plan which includes response, management and mitigation measures in the event of a fire.

11 S36 Consultation Conclusion

- 11.1 Having considered the application submission as a whole including the identified benefits of the scheme, together with the consultation responses received and having balanced the developer's interest against the wider community interest, the proposals is considered to be acceptable in principle. However, the Council's own assessment and the responses of consultees have identified a range of measures that are essential to ensure that the adverse effects are properly mitigated. Accordingly, it is recommended that the Council objects to the proposal unless the conditions set out below are imposed in their entirety or that suitable alternative conditions are agreed in writing between the Energy Consents Unit and Planning Service.

Recommendation

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

13 Background Papers

- Application form plans and supporting documentation including the Planning Statement and supplementary appendices and figures
- Consultation responses to the ECU
- National Planning Framework (NPF) 4
- South Ayrshire Council Local Development Plan 2
- Draft Energy and Strategy and Just Transition Plan (published January 2023)
- South Ayrshire Local Landscape Designations Review 2018
- Residential Visual Amenity Assessment Technical Guidance Note 2/19 (Landscape Institute)

14 Person to Contact:

Alastair McGibbon - Supervisory Planner (Development Management)

Telephone: 01292 616 177

Email: alastair.mcgibbon@south-ayrshire.gov.uk

Appendix – Conditions (C) and Reasons (R) and Developer Notes

C1: The consent is for a period of 40 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

The commencement of development shall be no later than three years from the date of this consent. Written confirmation of the intended date of commencement of development shall be provided to the Planning Authority no later than one calendar month before that date.

R1: To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of The Planning (Scotland) Act 2006.

C2: The commencement of development shall be no later than three years from the date of this consent. Written confirmation of the intended date of commencement of development shall be provided to the Planning Authority no later than one calendar month before that date.

R2: To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of The Planning (Scotland) Act 2006.

C3: That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission, or a non-material variation has been agreed in writing by the Planning Authority.

R3: To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.

C4: Pre-construction surveys shall be carried out no more than 3 months prior to the commencement of development for protected species that can be surveyed at any time of the year (e.g. otter and badger), or if there is a restricted window within which a survey can only be undertaken (e.g. breeding birds, bats and water vole), as close to the start of works as possible, and always within the most recent survey window.

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

R4: In the interests of the protection of species.

C5: Prior to the commencement of development on site, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Planning Authority. The CEMP shall include a pollution prevention plan (to avoid adverse impacts on the River Ayr) which is in line with SEPA standard guidance. Thereafter, the approved CEMP shall be implemented on site for the duration of the full construction period of the development, unless otherwise agreed in writing by the Planning Authority.

R5: To ensure that all construction operations are carried out in a manner that minimises their impact on the environment, and that the mitigation measures accompanying the application, or as otherwise agreed, are fully implemented.

C6: Prior to the commencement of development on site, a detailed landscape management plan and aftercare regime for the proposed areas of woodland mix, amenity and wildlife grassland and additional hedge/tree planting, as well as the maintenance and enhancement of the existing hedgerow shall be submitted to and approved in writing by the Planning Authority. This should include details of how habitats will be established and maintained. Thereafter, the management and aftercare of the planting shall be carried out in accordance with the approved details and be maintained on site for the lifetime of the development, unless otherwise agreed in writing by the Planning Authority.

R6: In the interests of visual amenity and to ensure a satisfactory standard of local environmental quality.

C7: That all of the biodiversity enhancement mitigation measures outlined within the approved Preliminary Ecological Appraisal, including enhancement of retained hedgerows and creation of wildflower meadow and ponds, shall be implemented and maintained to the satisfaction of the Planning Authority.

R7: In the interests of the protection and enhancement of habitats and species and in response to the specific requirements of Policy 3 of National Planning Framework 4 (NPF4).

C8: That prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and thereafter implemented as approved.

R8: In the interests of visual amenity.

C9: The Rating Level, as defined in BS 4142:2014+A1:2019, from the operation of fixed plant and machinery due to development shall not exceed 5 dB above the representative background sound levels at the nearest noise sensitive receptors existing or consented at the time of the application. Written confirmation of the location of any noise sensitive premises and premises that are financially involved shall be provided to the Planning Authority prior to the commencement of development.

C9: In the interests of residential and environmental amenity.

C10: (1) Following the receipt of a written request from the Planning Authority (which shall set out at least the date, time and location that the complaint relates to), following a complaint alleging noise disturbance during the operational phase of the development, the Company shall:

i. Within 21 days of receipt of the written request, at its expense, employ an independent consultant to assess the level of noise emissions from the development at the complainant's dwelling (or a suitable alternative location agreed in writing by the Planning Authority).

ii. Prior to the commencement of the noise assessment, the Company shall submit to the Planning Authority, for its written approval, a proposed noise assessment protocol. The protocol shall include the proposed measurement location where measurements for compliance checking purposes shall be undertaken, and also the range of meteorological and operational conditions to determine the assessment of noise. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority, and such others as the independent consultant considers necessary to obtain sufficient data to evidence noise from the development is not more than +5 dB above the background sound level.

(2) The assessment of the level of noise from the development shall be undertaken by the independent consultant in accordance with the noise assessment protocol approved under part (1)(ii).

(3) Within 2 months of the date of the written request from the Planning Authority under part (1), unless the time limit is extended in writing by the Planning Authority, the Applicant shall provide to the Planning Authority, the independent consultant's assessment of the level of noise from the development. Unless otherwise agreed in writing by the Planning Authority, the assessment shall be accompanied by all the data collected for the purposes of undertaking the noise assessment, such data to be submitted in a format to be agreed by the Planning Authority.

(4) Where the results of the noise assessment evidence the development is causing the Rating Level at the complaint's property to exceed the background sound level by more than +5 dB assessed according to BS 4142:2014 + A1: 2019, the Company shall provide a noise mitigation plan, for the written approval of the Planning Authority, to ensure that no adverse noise impacts will occur at the complainant's property.

R10: To avoid noise disturbance in the interests of residential amenity.

C11: That inter-visible passing places shall be provided on the C2 between its junction with the A70 and the proposed secondary site access junction in accordance with the SCOTS National Roads Development Guide, prior to the commencement of construction on site. Precise detail and specifications of the required inter-visible passing places (including construction, siting and layout) shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance before any work commences on site. Thereafter, the passing places shall be implemented as approved prior to construction works on the BESS commencing.

R11: In the interest of road safety and to ensure an acceptable standard of construction. To avoid the possibility of unnecessary reversing of vehicles onto the public road.

C12: That the proposed points of development access shall be constructed in accordance with the specifications in the SCOTS National Roads Development Guide. The accesses shall be constructed, as approved by condition and in conjunction with any necessary Roads Construction Consents and/or Permits, prior to the commencement of construction works on site.

R12: In the interest of road safety and to ensure an acceptable standard of construction.

C13: That the junction access visibility sightline splays for the proposed primary and secondary site accesses as set out within sections 3.17 and 3.18 of the Construction Traffic Management Plan (May 2024), shall be maintained in both directions at the junction with the public road. There shall be no obstacle greater than 1.05 metres in height within the visibility sightline splays.

R13: In the interest of road safety and to ensure an acceptable standard of construction. To avoid the possibility of unnecessary reversing of vehicles onto the public road.

C14: That prior to occupation of the development, any gates shall be set back a minimum of 10.0 metres from the rear of the public footway/ roadway, and open inwards away from the public roadway.

R14: In the interest of road safety.

C15: That the discharge of water onto the public road carriageway shall be prevented by drainage or other means. Precise details and specifications of how this is to be achieved shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance, before any work commences on site. Thereafter, the drainage or other means shall be implemented as approved.

R15: In the interest of road safety and to avoid the discharge of water onto the public road.

C16: No development shall commence unless and until an addendum to the Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the Planning Authority in consultation with the Ayrshire Roads Alliance. The CTMP addendum shall be required to include:

1. A full breakdown of all vehicle numbers anticipated to be generated by the development over the construction period, broken down by vehicle classification and estimated route to /from the site. The detail provided shall require to be sufficient to highlight periods of peak development traffic generation, and provide both estimated daily and weekly trip number estimates;
2. Full details of any mitigation and/or control measures required on the public road network to facilitate construction traffic. Where this requires public road layout or alignment mitigation this requires to include full detailed design/ construction details;
3. Details of parking facilities to accommodate all construction traffic throughout the construction programme to avoid placing the adjacent road network under undue pressure;
4. Details of measures/ contractual agreements to be put in place to manage the compliance of contractors and sub-contractors with using agreed/approved construction traffic routes and vehicle parking. This shall include any associated monitoring procedures, and any specific training and disciplinary measures to be established to ensure the highest standards are maintained;
5. Details of all public road signing and lining arrangements to be put in place during both the construction period, and for the operation of the site thereafter. This detail shall include any additional advisory/warning signage and/or temporary traffic control measures which may be required during the construction period;
6. Full details of all arrangements for emergency vehicle access;
7. Measures to safely accommodate equestrians and cyclists on public roads forming part of the construction traffic route, and details of a nominated road safety person;
8. All materials delivery lorries (dry materials) to be sheeted to reduce dust and spillage onto the public roads;
9. Full details on the process for the identification and undertaking of any necessary repairs to the construction traffic route, including the mechanism for coordination with the Roads Authority.

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

R16: In the interests of road safety.

C17: That at a detailed flood risk assessment report including assessment of the flood risk from the small watercourse on the Western boundary of the development site shall be submitted for the prior written approval of the Council as Planning Authority, in consultation with SEPA and the Ayrshire Roads Alliance as the Council's Flood Authority, before any work commences on site. No works shall commence until both SEPA and the ARA are satisfied and have confirmed a position of no objection to the development on flood risk grounds. The development shall be completed in accordance with all recommendations in the approved flood risk assessment report.

R17: In order to ensure the development is protected against flooding in an acceptable manner.

C18: That details of a SUDS scheme designed in line with the requirements of NPF4, including where appropriate calculations, along with details of how these measures will be maintained in perpetuity, shall require to be submitted for the prior written approval of the Council as Planning Authority, in consultation with SEPA, before any work commences on site. The Sustainable Urban Drainage System (SUDS) shall require to be installed and completed in accordance with the submitted and approved plans prior to operation of the site.

R18: To ensure that the site is drained in an acceptable and sustainable manner.

C19: Prior to the commencement of development, site cross section drawings showing existing and proposed ground levels shall be submitted to and approved in writing by the Planning Authority.

R19: In order to provide a full understanding of the proposed development relative to site topography.

C20: Prior to the commencement of development on site, a full Emergency Action Plan shall be submitted to and approved in writing by the Planning Authority. This shall include a Fire Safety Management Plan which outlines the measures in place to limit the fire risk, and a response and management plan in the event of a fire. Thereafter, the development shall be constructed, implemented and operated in strict accordance with the measures contained within the approved Emergency Action Plan, and these shall be maintained for the lifetime of the development, unless otherwise agreed in writing by the Planning Service.

R20: In the interest of health and safety.

C21: Prior to the commencement of development, a Decommissioning, Restoration and Aftercare Strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall comprise of measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, a Decommissioning, Restoration and Aftercare Plan with proposals for the removal of the above ground elements of the development, confirmation of the status of subterranean elements of the development (retention, removal, or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

R21: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

C22: The development shall be decommissioned, the site restored, and aftercare thereafter undertaken in accordance with the decommissioning, restoration and aftercare strategy and associated plan approved under Condition 21, within one year of the expiry of the consent or within one year of permanent cessation of the use of the development site for the purpose of operating the approved Battery Energy Storage System, whichever is the sooner, unless otherwise agreed in writing in advance with the Planning Authority.

R22: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

C23: Prior to the commencement of development, a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in conditions 21 and 22 has been submitted to and approved in writing by the Planning Authority.

The value of the financial guarantee shall be agreed between the applicant and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in conditions 21 and 22.

The financial guarantee shall be maintained in favour of the Planning Authority until the completion of all decommissioning, restoration and aftercare obligations referred to in conditions 21 and 22.

The value of the financial guarantee shall be reviewed by agreement between the applicant and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional not less than every five years, and at the time of the approval of the detailed decommissioning, restoration and aftercare plan approved under condition 21. The value of the financial guarantee shall be increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations referred to in conditions 21 and 22 and best practice prevailing at the time of each review.

R23: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the applicant.

C24: No battery energy storage infrastructure and apparatus, substation infrastructure or buildings, or any other infrastructure constructed on site shall display any illuminated text, sign, logo, or advertisement, other than those required by law under other legislation.

R24: in the interest of visual amenity.

Informative Notes for Developer

Road Opening Permit:

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

Roads (Scotland) Act:

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

New Roads and Street Works Act 1991:

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

Costs of Street Furniture:

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

Costs of TROs:

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

Signage to TSRGD 2016:

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

Abnormal Loads (S96 Agreement):

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