

County Buildings  
Wellington Square  
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26 March 2025

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

**All other Members for Information Only**

Dear Councillor

**REGULATORY PANEL (PLANNING)**

You are requested to participate in the above Panel to be held on **Thursday, 3 April 2025 at 10.00 a.m.** for the purpose of considering the undernoted business.

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

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

Yours sincerely

**CATRIONA CAVES**  
Chief Governance Officer

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

1. Declarations of Interest.
2. Minutes of previous meeting of 5 March 2025 (copy herewith).
3. Application continued from the Regulatory Panel of 5 March 2025 and the Regulatory Panel (Site Visit) to take place on 27 March 2025: 22/00302/PPPM – Land to the East of A77T from Holmston Roundabout to Bankfield Roundabout Ayr South Ayrshire (report considered by the Regulatory Panel on 5 March 2025 herewith).
4. 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 - Submit report by the Housing, Operations and Development Directorate (copy herewith)

For more information on any of the items on this agenda, please telephone June Chapman,  
Committee Services on at 01292 272015, at Wellington Square, Ayr or  
e-mail: [june.chapman@south-ayrshire.gov.uk](mailto:june.chapman@south-ayrshire.gov.uk)  
[www.south-ayrshire.gov.uk](http://www.south-ayrshire.gov.uk)

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## **REGULATORY PANEL (PLANNING)**

Minutes of a hybrid webcast meeting  
on 5 March 2025 at 10.00 a.m.

Present  
in County  
Buildings: Councillors Alan Lamont (Chair), Ian Cavana, Alec Clark, Martin Kilbride, Mary Kilpatrick and Duncan Townson.

Present  
Remotely: Councillor Craig Mackay.

Apologies: Councillors Mark Dixon and Lee Lyons,

Attending  
In County  
Buildings: K. Briggs, Service Lead – Legal and Licensing; Craig Iles, Service Lead – Planning and Building Standards; E. Goldie, Co-ordinator (Place Planning); J. Hall, Co-ordinator (Planning Strategy); C. Cox, Assistant Director - Planning and Development; A. McGibbon, Supervisory Planner; F. Ross, Co-ordinator Legal Services (Property and Contracts); G. Senior, Ayrshire Roads Alliance; F. Sharp, Supervisory Planner; J.Chapman, Committee Services Officer; and E. Moore, Clerical Assistant.

Variation in Order of Business<sub>2</sub>

In terms of Council Standing order No 13.3. the Panel agreed to vary the order of business as hereinafter minuted.

### **Chair's Remarks.**

The Chair

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

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

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

### **2. Minutes of previous meetings.**

The Minutes of previous meetings of 25 June 2024, 11 December 2024 and 6 February 2025 (Special) (issued) were submitted and approved.

**Decided:** to approve these minutes.

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

There were submitted reports (issued) of February 2025 by the Housing, Operations and Development Directorate on planning applications for determination.

The Panel considered the following applications: -

**(1) 24/00795/APP - 10D Barassiebank Lane, Troon** - Planning permission is sought for the change of use of a dwelling flat to short-term letting accommodation at a flatted residential block located at 10D Barassiebank Lane, Troon.

The Panel heard from the applicant and various objectors.

The Panel

**Decided:** to approve the application subject to the following conditions: -

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

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

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

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

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

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

**Advisory Notes:** -

To support the safe and responsible management of the property, it is recommended that a security management plan and house guest rules be implemented. A security management plan should be developed to ensure the safety and security of both guests and the surrounding neighbourhood. This plan may include procedures for check-in and check-out, contact information for a local property manager or responsible person, ensuring proper locks and security systems on entry points, and clear protocols for addressing noise or disruptive behaviour. It is also recommended that a set of house rules be clearly communicated to guests. These rules might include guidelines on noise levels, quiet hours, restrictions on the number of guests allowed to stay, proper waste disposal, and how to address any concerns during their stay.

**List of Determined Plans: -**

Drawing - Reference No (or Description): Floor Plan;  
 Drawing - Reference No (or Description): Location Plan; and  
 Drawing - Reference No (or Description): Operational Statement.

**Reason for Decision: -**

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

**Background Papers:**

1. Application form, plans and submitted documentation.
2. Representations.
3. Adopted South Ayrshire Local Development Plan (LDP2).
4. National Planning Framework 4 (NPF4).
5. Planning application 24/00486/APP.

**Integrated Impact Assessment:**

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

**(2) [24/00864/PPP](#) – Land at Hillhead, Coylton, South Ayrshire** - Planning permission in principle is sought for the erection of 5 dwellinghouses and associated development to the north of the A70 Ayr/ Coylton Road at Hillhead, close to the junction of the A70 and the B742.

The Panel heard from various objectors.

The Panel

**Decided:** to approve the application, subject to the following conditions: -

(1C) The development to which this permission relates must be commenced no later than five years from the date of this permission.

(1R) To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997, as amended by The Planning etc. (Scotland) Act 2006.

(2C) A further application(s) for the following matters specified in conditions below shall be submitted for the requisite approval in writing of the Planning Authority. No works shall

commence on site until the written permission of the Planning Authority has been obtained for the specific matter to which the works relate.

(2R) To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997, as amended by The Planning etc. (Scotland) Act 2006.

(3C) That full details of the proposed development, including the siting, design, external appearance, means of access, landscaping measures, and any other matters specified in conditions below, shall be submitted for the approval of the Planning Authority as outlined in Condition 1 of this planning permission.

(3R) To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by section 21 of the Planning Etc. (Scotland) Act 2006.

(4C) That this planning permission in principle, subject to the specified planning conditions, relates to the plan(s) as listed below.

(4R) To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by section 21 of the Planning Etc. (Scotland) Act 2006.

(5C) That at the Approval of Matters Specified in Conditions stage, a design statement shall be submitted, for the written approval of the planning authority, which demonstrates how the design and siting of the development takes cognisance of the character of the surrounding area and including a proposed street elevation drawing showing the proposed development in relation to the neighbouring existing dwellings at 11b and 13 c Hillhead.

(5R) In the interest of residential and visual amenity.

(6C) That at the Approval of Matters Specified in Conditions stage details shall be submitted, for the written approval of the planning authority, of private garden ground for each dwelling, which shall be in accordance with the Council's planning policy guidance in relation to 'Open Space and Designing New Residential Developments' and/ or any subsequent document prepared by the Council in relation to the provision of open space for residential areas.

(6R) To comply with the Council's planning policy guidance in relation to open space, and to ensure that the extent of land to be used as garden ground is commensurate with the locality.

(7C) That at the Approval of Matters Specified in Conditions stage details shall be submitted 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.

(7R) In the interest of visual amenity.

(8C) That at the Approval of Matters Specified in Conditions stage, details of the location, height and materials of all new boundary fences, gates or other means of enclosure shall be submitted to the Planning Authority for written approval.

(8R) In the interest of residential and visual amenity.

(9C) That at the Approval of Matters Specified in Conditions stage details shall be submitted of the proposed access, surfacing arrangements, and parking arrangements for the proposed houses, including any resultant footpath and carriageway repairs within

the limits of the public road, all of which shall be to the satisfaction of the Ayrshire Roads Alliance, and in compliance with the National Roads Development Guide.

(9R) In the interest of road safety.

(10C) That at the Approval of Matters Specified in Conditions stage, an Ecological Impact Assessment (or similar document) shall be submitted for the written approval of the Planning Authority. The submitted document shall identify the presence of likely absence of ecological features, and prescribe mitigations measures to protect any such features, along with biodiversity measures to enhance biodiversity at the site.

(10R) In the interests of the natural environment and biodiversity at the site.

(11C) That at the Approval of Matters Specified in Conditions stage a noise impact assessment shall be undertaken and submitted so as to determine the likelihood of noise nuisance from road traffic on the noise sensitive receptors, for the written approval of the planning authority, in conjunction with the Council's Environmental Health Service.

The noise impact assessment shall be carried out by a suitably qualified acoustic consultant or other competent person, in accordance with the principals outlined in Technical Advice Note (TAN) Assessment of Noise.

All Noise sensitive receptors in the high and medium category (table 2.1 TAN) shall be identified and the level of significance determined.

Maximum Target Noise Levels within the noise sensitive receptor to be used in the determination:

LAEQ16hrs 35dB (0700-2300) internal noise level  
 LAEQ8hrs 30dB (2300-0700) internal noise level  
 LAMAX 45 dB (2300- 0700) internal noise level  
 LAEQ16hrs 50dB (0700-2300) outside amenity space

Internal noise levels to be achieved, where possible, with windows open sufficiently for ventilation. Noise reduction to be taken as 10dB from outside to inside with window open. The submitted assessment shall identify any mitigation measures required to achieve the above ratings and shall be agreed in writing with the Planning Authority prior to the commencement of works on-site.

(11R) In the interest of residential amenity.

**Advisory Notes: -**

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

2. 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.

3. 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.

4. 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.

5. 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.

6. The Council as Roads Authority advises that the applicant/ developer will be responsible for the reinstatement of the public footway/ carriageway along the entire frontage of the site in compliance with the Council's National Roads Development Guide.

7. The Council as Roads Authority advises that access to the site shall be by way of dropped kerbs, in accordance with paragraph 3.1.2 of the Council's National Roads Development Guide.

**List of Determined Plans: -**

Drawing - Reference No (or Description): 0001; and  
Drawing - Reference No (or Description): 0002

**Reason for Decision: -**

The principle of the development hereby approved is considered to accord with the provisions of the development plan, and subject to appropriate conditions and the submission of application(s) for the Approval of Matters Specified in Conditions, there is no significant adverse impact on the amenity of neighbouring land and buildings.

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

**Regulatory Panel (Planning): 05 March 2025**

Report by Housing, Operations and Development Directorate (Ref: 24/00864/PPP)

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**Background Papers: -**

1. Application form, drawings and supporting information
2. Representations
3. National Planning Framework 4 (NPF 4)
4. Adopted Local Development Plan 2 (LDP2)
5. Consultation responses
6. Historic Planning Application references 06/00482/FUL, 04/00420/REM and 02/00528/FUL

**Integrated Impact Assessment: -**

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

**At this point and the time being 10:53 am, the Panel agreed to adjourn.**

**Councillor Alec Clark and the Service Lead – Legal and Licensing left the meeting at this point.**

**The panel reconvened at 11:06 am.**

**(3) 22/00302/PPPM - Land to the East of A77T from Holmston Roundabout to Bankfield Roundabout, Ayr, South Ayrshire - Planning Permission in Principle for residential development and neighbourhood commercial development (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office), access, landscaping, drainage and associated works.**

The Panel

**Decided:** that the application be continued to allow the Panel to undertake a site visit and thereafter consider at a future meeting of this Panel.

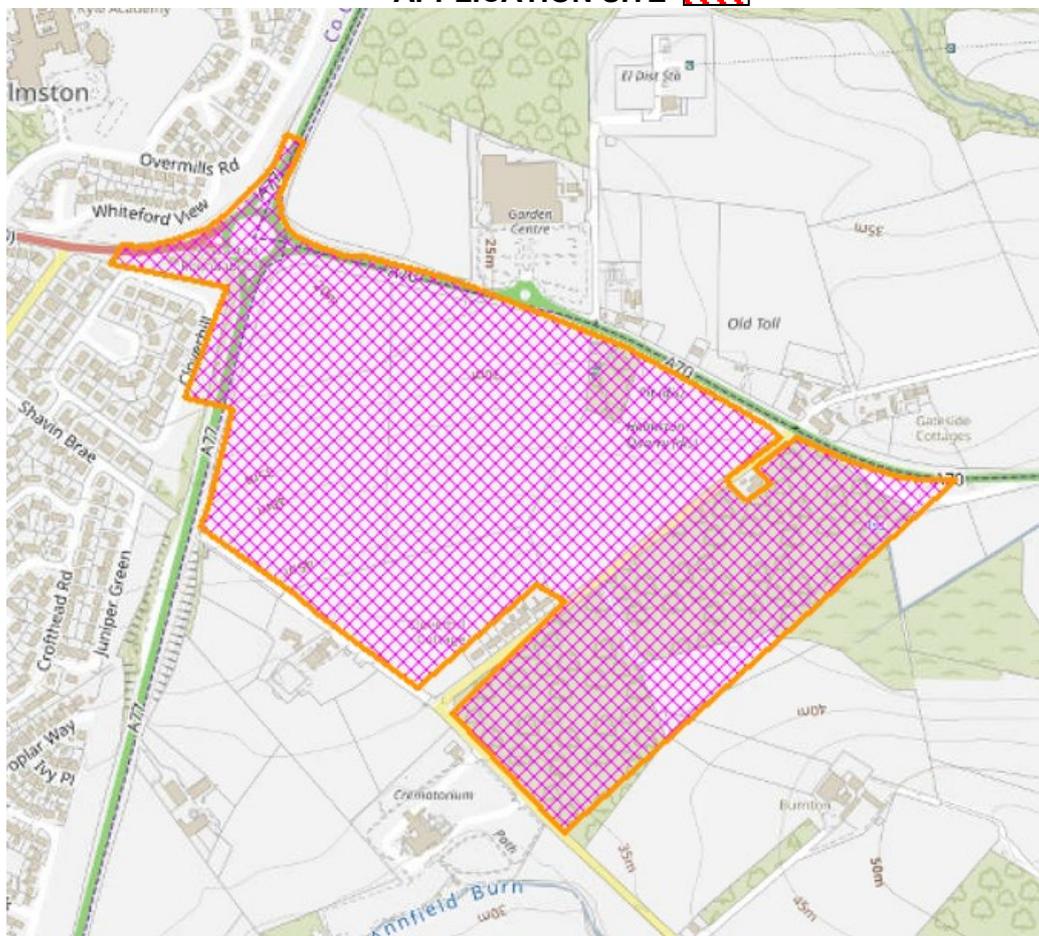
The meeting ended at 11:16am.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

22/00302/PPPM

LAND TO THE EAST OF A77T FROM HOLMSTON ROUNDABOUT TO BANKFIELD ROUNDABOUT AYR SOUTH AYRSHIRE

## Location Plan

APPLICATION SITE 

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

[Application Summary](#)

## Summary

This application seeks planning permission in principle for the erection of a residential development and neighbourhood commercial development (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office) access, landscaping, drainage and associated works at land to the east of the A77 trunk road between Holmston and Bankfield Roundabouts, Ayr. Access to the site is proposed to be taken from the A70 at the roundabout opposite Dobbies Garden Centre and a pedestrian and bicycle underpass below the A77 connecting the application site with Holmston, Ayr to the west is also proposed together with landscaping, drainage and associated works. The application proposes that up to 350 dwellings could be accommodated on the site (including 25% affordable units); however, as the application concerns planning permission in principle many of the specific details of the development are not included and would be subject to further planning application(s) should planning permission in principle be granted. Fifty-one representations have been received, of which fifty are objections which are concerned with issues relating to; planning policy, local services / local community / infrastructure, traffic / roads and transportation, flooding / drainage, landscape and visual impact, ecology and amenity. One representation has been received in support of the proposed development which outlines the benefits of energy efficient housing.

## **Regulatory Panel (Planning): 25 June 2024**

Report by Housing, Operations and Development Directorate (Ref: 22/00302/PPPM)

Consultation responses have been received from fifteen consultees with no formal objections being received, although serious concerns are expressed by the Council's Education Service due to significant school pupil placement challenges that the proposal presents. The Ayrshire Roads Alliance also raise serious concerns because they are yet to conclude with Transport Scotland the Traffic Study work on Local Development Plan 2 (including the A77) and therefore cannot fully assess the proposal relative to traffic and transportation issues at this time.

While an active travel connection from the application site to the opposite side of the A77 to the west is proposed in the form of an underpass, Transport Scotland initially requested a condition be attached to any grant of consent requiring the construction of an overbridge across the A77 connecting the site with Holmston. Ayr. Such a condition could not be imposed as it would not meet the test for conditions as set out in the Scottish Government Circular 4 1998 as an overbridge is not the subject of this application and would be a significant development requiring planning permission. Also, an overbridge has not been subject to the mandatory pre-application public consultation process required for Major development applications. According to the Scottish Governments Circular 3 2022, proposals at application stage must be recognisably linked to the proposals as described at the pre-application stage. As the overbridge did not feature at the pre-application stage, it fails to meet this requirement.

Transport Scotland has subsequently confirmed that they would offer no objection to the proposed development if a grade-separated crossing of the A77 is provided, and it was confirmed that the underpass as proposed would represent such a connection. The application has been assessed relative to what has been submitted – namely, the provision of a pedestrian/cycle underpass link to Ayr as opposed to overbridge. The Service however has serious concerns with the provision of an underpass as they are not a modern design solution to creating good connections and they are not overlooked, welcoming or attractive spaces. Significant engineering works would require to be undertaken to achieve an underpass. It is indicated on the submitted drawings that it would measure approximately 20 metres long x 6 metres wide; this would involve substantial cost and no evidence has been submitted to demonstrate that this would be feasible or deliverable. There is significant concern that, based upon current information and within the proposals forming this planning application, that the site would not be capable of connection to Ayr and would be solely accessible by public transport or existing at grade passage across the A77. This would create an unsustainable new community not able to access local facilities without safe means of access or without reliance on the private car. Similarly, there are concerns with the viability and deliverability of the dualling of the A77 (as required by Transport Scotland) between Whitletts and Holmston roundabouts.

The proposed development has been assessed against the terms of relevant policies within the Development Plan (National Planning Framework 4 and South Ayrshire Local Development Plan 2) and it is considered that the proposal cannot be considered positively against the terms of the aforementioned documents for the following reasons - it is not allocated as a housing opportunity within the LDP, the development of the site could undermine the viability and probability of pre-existing allocated and consented sites in the LDP being developed, most of which are within existing settlements and/ or on brownfield sites. Due to the fact that it has not been demonstrated, then it cannot be concluded that the proposed development would bring a net economic benefit to Ayr.

Furthermore, it is considered that the proposals would have a significant adverse impact on the landscape character of the area. The proposed underpass (if deliverable) would represent an unattractive and unwelcoming aspect.

Lastly it is considered that the application is premature in the absence of the traffic study for the LDP (including the A77) having been concluded. Planning decisions require to be made in accordance with the Development Plan and this proposal is significantly contrary. It is therefore recommended that this application for planning permission be refused.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

### REGULATORY PANEL: 25 JUNE 2024

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>22/00302/PPPM</b>
<b>SITE ADDRESS:</b>	<b>Land to the East of A77T from Holmston Roundabout to Bankfield Roundabout Ayr South Ayrshire</b>
<b>DESCRIPTION:</b>	<b>Planning Permission in Principle for residential development and neighbourhood commercial development (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office), access, landscaping, drainage and associated works</b>
<b>RECOMMENDATION:</b>	<b>Refusal</b>

#### APPLICATION REPORT

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

#### Key Information:

- The application was received on 31 March 2022.
- The application was validated on 3 May 2022.
- The case officer visited the application site on numerous occasions, most recently on 21 May 2024.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was carried out by the Planning Authority on 13 May 2022.
- No Site Notice was required.
- A Public Notice, under Regulation 20 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 was placed in the Local Press on 17 May 2022.

#### 1. Proposal

##### Site Description

The application site extends to approximately 34 hectares and the application proposes that approximately 350 residential units could be accommodated (including 25% affordable housing provision) and a maximum of 1,000 square metres of neighbourhood commercial uses across the whole development. The north-western portion of the site is pastureland, subdivided into three fields by post and wire fencing. The south-eastern portion is almost entirely covered by a young coniferous plantation, which serves as a Christmas tree farm, and is crossed by overhead power lines. The application site rises steadily from Holmston Roundabout on the north-western boundary to the central portion of the site with the land then steadily falling to the south-east towards Masonhill Crematorium.

The site is bound to the north by Dobbies Garden Centre and a cluster of residential dwellings, by agricultural land to the east, by Masonhill Crematorium and agricultural land to the south and by residential dwellings and areas of open space to the west. It is noted that the A70 to the north of the site and Holmston Roundabout and parts of the A77 trunk road to the west are both included within the red line application site boundary. An existing road (Sandyhill Terrace) bisects the site in its eastern portion, entering the site opposite a cluster of existing dwellings along the A70 before travelling south-west to the southern site boundary and then turns south-east along the site boundary towards Masonhill Crematorium.

### Development Proposal

This application seeks planning permission in principle for the erection of a residential development and neighbourhood commercial development (Class 1 Retail, Class 2 Professional Services, Class 3 Food and Drink and Class 4 Office), access from the A70 at the roundabout opposite Dobbies Garden Centre and an underpass connecting the application site with Holmston, Ayr to the west, landscaping, drainage and associated works. The site extends to approximately 34 hectares and the application proposes that approximately 350 residential units could be accommodated (including 25% affordable housing provision) and a maximum of 1,000 square metres of neighbourhood commercial uses across the whole development.

It is important to be mindful that the application is for planning permission in principle and therefore many of the details set out within the Design Statement for the site are indicative. In order for any development to take place on the site, further planning application(s) would be required, outlining the specific location of housing, commercial units, roads, open space and associated infrastructure.

An indicative spatial masterplan is included within the submission along with a Supporting Statement and Design Statement, which promote up to approximately 350 residential units (including 25% on site affordable units), with a range of house types and sizes. The masterplan includes perimeter parkland and structural shelterbelt, the creation of a central parkland, vehicular access from the A70 via the existing roundabout, a new pedestrian underpass crossing the A77 to provide a route towards Ayr town centre, sustainable drainage (SuDS) features at the lowest points of the site (north west and south east)), an internal road network, active travel routes linking to local amenities and core path networks, retention of existing vegetation and field boundary trees and avenue tree planting to define main thoroughfares. The proposed development would extend the existing settlement edge of Ayr to the east and the Design Statement proposes new tree planting on this edge and to the north and west.

### Planning Process

Due to the 'Major' status of this planning application it is necessary for the Council to come to a view on whether or not the application proposal is 'significantly contrary to the development plan' as this determines if it requires to be notified to Scottish Ministers. Paragraph 4.77 of Circular 3/2022 (Development Management Procedures) notes with specific regard to 'pre-determination hearings' that while the judgement as to whether a proposal is significantly contrary to the development plan lies with the Planning Authority, and ultimately the Courts, Scottish Ministers' general expectation is that if the proposal is contrary to the vision or wider spatial strategy of the Plan then it should be considered significantly contrary to said plan. These considerations are planning judgements undertaken by the Chief Planning Officer of the Council.

**In this case, as the application site is not allocated for a housing and commercial development in the LDP, the proposal for housing and commercial development is significantly contrary to the vision and spatial strategy of the Plan. Should Members be minded to approve the application, contrary to recommendation by the Planning Service, then it would require to be notified to the Scottish Ministers who can then 'call in' the application for their own determination, or alternatively, instruct the Planning Authority to determine the application as they see fit.**

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

A Processing Agreement has been prepared and agreed in consultation with the applicant which agrees that the Planning Service will seek to present the application to the Council's Regulatory Panel (Planning) no later than 7 June 2024.

A Proposal of Application Notice (Ref.21/01050/PAN) described as “Proposal of application notice for planning permission in principle for residential development and neighbourhood commercial development (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office), access, landscaping, drainage and associated works” was approved on 3<sup>rd</sup> November 2021. It is considered that the description and nature of the application is such that it is clearly and recognisably linked to the proposal described in the Proposal of Application Notice.

Planning History

03/01036/OUT – Erection of residential development – Withdrawn April 2005.

**2. Consultation Responses:**

**Council’s Sustainable Development (Biodiversity) Service** – no objection.

**Council’s Environmental Health Service** - no objection.

**Council’s Sustainable Development (Landscape and Parks) Service** - no objection.

**Council’s Housing Policy and Strategy Service** – no objection. 25% on-site affordable housing would be expected.

**Councils’ Education Service** - This Service has serious concerns and would encounter significant pupil placement challenges if this development was to progress. Although SAC Education do not anticipate any problems with accommodating pupils requiring a denominational education at either Queen Margaret Academy or at St John’s Primary School, both catchment non-denominational schools are at capacity and, based on current rolls, will not be able to accommodate the anticipated number of non-denominational pupils arising from the proposed development. The product of 350 homes (circa 108 primary pupils and 67 secondary pupils) would most likely be accommodated and mitigated through school extensions, rather than a new build school provision. The Council’s Education service has not undertaken a feasibility study at this time on a further extension of either Forehill PS or Kyle Academy, due to the fact that the planning application site is not allocated for housing, the proposal is significantly contrary to the Development Plan and is being recommended for refusal. Notwithstanding, there are concerns about the space and capacity for an extension at Forehill PS and whether this would be achievable.

**Council’s external Ecology advisor AECOM:** would expect an Ecological Impact Assessment (EclA) to be undertaken. Assessment of the use of the site by roosting and foraging bats is required. It is a key consideration that surveys for European Protected Species, including bats, cannot be conditioned and therefore must be undertaken prior to the planning application being determined. Surveys carried out for the Preliminary Ecological Appraisal Report (PEAR) took place in January 2022 and NatureScot. consider ecological surveys to be out of date after 2 years – surveys reported in the PEAR should therefore be repeated as conditions on site may have changed.

As a result of these comments the agent submitted an updated Ecological Appraisal on 18<sup>th</sup> April 2024. This identifies that there are trees with potential to support roosting bats in the site and that these may be subject to lopping or felling. As this is an application for Planning Permission in Principle, it would seem to be reasonable to condition that further survey to confirm the presence of roosting bats be carried out if works to these trees are needed. However, any such further survey should be completed prior to determining the application for full planning permission, as it is not possible at this time to condition surveys for European Protected Species (which includes bats). AECOM also note that there continues to be limited assessment of potential effects on nature conservation sites. There are areas of ancient woodland under 1km from the application site and such areas are vulnerable to pressure from increased visitor numbers, especially dog walkers, that can arise from new housing developments. The potential for such impacts should be considered and appropriate mitigation outlined, if necessary. However, as this is an application for Planning Permission in Principle, it would be possible for this to be carried out as part of application for detailed planning permission.

**Ayrshire Roads Alliance** - Recommend deferral of the application. The ARA cannot fully appraise the development proposal from a traffic perspective. Whilst the impacts of traffic can be tested, any mitigation should be taking cognisance of the LDP2 mitigation measures to make sure it does not prejudice or conflict the delivery of mitigation deemed to be required to support the release of allocated sites. The ARA are yet to conclude the Traffic Study work on LDP2 (including the A77) with Transport Scotland and the application cannot therefore currently be fully assessed relative to traffic and transportation issues at this time. It is considered premature to assess the site whilst the aforementioned work remains outstanding and deferral is recommended until such time as the Council's LDP2 Traffic Study is concluded, the package of mitigation measures has been identified and agreed with Transport Scotland and associated indicative cost contributions allocated to individual LDP2 sites.

**Transport Scotland (Trunk Roads)** – No objection subject to conditions. The proposed conditions related to the number of units not exceeding 350, that an overbridge be completed across the A77 prior to the occupation of any part of the development, modification of Holmston Roundabout, improvements to the A77 trunk road including dual carriageway standard between Whitletts Roundabout and Holmston Roundabout to provide additional capacity and details of lighting, landscaping treatment, fencing/barrier proposals along the trunk road boundary and that there shall be no drainage connections to the trunk road drainage system.

It should be noted that the applicant was in separate discussion during the processing of the application with Transport Scotland; however, the Planning Service were not included in these discussions. It is understood that discussions were in relation to the provision of an overbridge that does not form part of the planning application proposals. The request by Transport Scotland to impose a condition to any grant of planning permission for an overbridge is not possible as it would not meet the test for conditions as set out in the Scottish Government Circular 4/1998 as an overbridge is not the subject of this application and in itself would be a significant development requiring planning permission. Also, an overbridge has not been subject to the mandatory pre-application public consultation process required for Major development applications. According to the Scottish Governments Circular 3/2022, proposals at application stage must be recognisably linked to the proposals as described at the pre-application stage. As the overbridge did not feature at the pre-application stage, it fails to meet this requirement.

The other condition proposed by Transport Scotland that would require to be reworded, should the application be approved, is the detail of the works required to be undertaken to Holmston Roundabout. Transport Scotland has referred to a drawing which was not submitted to the Planning Service in support of the application and therefore this could not be referenced in the condition.

Notwithstanding the consultation response from Transport Scotland, the Planning Service sought an updated response from them in relation to what has been applied for through this application, that is, an underpass as opposed to an overbridge. Transport Scotland subsequently confirmed that they would consider the development to be unacceptable without an appropriate active travel connection between the application site and Ayr at the opposite side of the A77. Transport Scotland has confirmed that they would consider an underpass to represent a grade separated crossing of the A77 trunk road. While they note concerns with the lack of information provided with respect to the underpass (which would require significant engineering works at a substantial cost), they have advised that a condition would be required to be imposed on the grant of any consent for the construction and design details to be provided as the subsequent application stage, noting that the current application is for Permission in Principle.

**SGN Pipelines Maintenance** – initially submitted an objection due to proximity to high pressure gas pipeline. However, this was altered to no objection following discussion between the applicant and SGN which the Council were not part of.

**Historic Environment Scotland** - no objection.

**Health And Safety Executive** – no objection.

**Prestwick Airport** – no objection at planning permission in principle stage.

**Scottish Water** – no objection.

**Scottish Environment Protection Agency** – no objection.

**West of Scotland Archaeology Service** – no objection subject to standard condition in respect of submission of Written Scheme of Investigation.

**3. Submitted Assessments/Reports:**

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

**Planning Statement:** This document outlines the background to the proposed development, provides a summary of document submissions, sets out the planning-based case for the proposed development and offers the applicant's assessment of the proposal against the relevant provisions of the Local Development Plan 2, relevant national planning policy and other material considerations.

**Design Statement (March 2022):** This report sets out a description of the proposed development, outlines planning policy context and describes the site and surrounding area. The report further reasons layout, scale, landscaping, appearance and access considerations. The report concludes by stating that an analysis of the site has been utilised to inform the design process and that the proposed development meets the key criteria of design and access principles – character and identity, safe and pleasant, inclusive, welcoming and resource efficient.

**Updated Design Statement (April 2024):** This updates the ecology considerations which were previously outlined in the originally submitted Design Statement, reflecting the findings of the updated Ecological Appraisal (April 2024). Biodiversity Net Gain section also added based on the Biodiversity Enhancement Plan (April 2024) – see below.

**Pre-Application Consultation Report:** This report is a requirement of all major development applications and outlines the community engagement undertaken by the applicant during the pre-application consultation period, compliance with statutory requirements and the views expressed by the local community and how the development proposals take them into consideration. The PAC Report provides a summary of the issues raised as part of the consultation exercise and provides a response to each.

**Landscape and Visual Impact Assessment (March 2022):** It is stated that the assessment was undertaken in accordance with established guidance, including the 3<sup>rd</sup> edition of the Guidelines for Landscape and Visual Impact Assessment (Landscape Institute and the Institute of Environmental Management and Assessment, 2013). The report considered the potential implications of the proposed development in terms of direct and indirect effects on key landscape characteristics and resources, together with the effects upon a representative range of visual receptors near the site. The assessment states that significant landscape impacts are predicted within the site boundary due to the direct loss of agricultural land and are regarded as a significant change. It is stated that significant visual impacts are predicted to be limited to relatively close proximity to the proposed development, primarily along a short section of Core Path SA16 and upon an area of the Ayr Valley Local Landscape Area but that the proposed development has the potential to integrate well within the surrounding wider landscape and contribute beneficially to the local landscape structure through the provision of extensive tree planting and hedgerows which can – provide screening and/or filtering of the proposed development, enhance visual amenity and biodiversity value and create linkages to existing woodland to enhance wildlife corridors and reinforce the green network. It is further outlined that the proposed development has been carefully considered to minimise significant visual effects by measures such as setting development back from the highest point of the site, providing linear open spaces with tree planting to break up the urban form and locating new structure and avenue tree planting to the proposed development boundaries. It is stated that these measures, particularly during the summer months, would ensure that significant effects would be limited to approximately 250m of the proposed site boundary.

**Flood Risk Assessment (March 2022):** This document outlines policy considerations, constraints on the developable area, flood risk, describes the site and finally describes the flood risk assessment (FRA). The FRA considered the risk from fluvial flooding from the River Ayr and the Annfield Burn, surface water flooding (including drains and ditches), groundwater flooding and infrastructure. The assessment states that the site is located over 4.5m above the Annfield Burn and over 7m above the River Ayr and is therefore not predicted to be at significant risk of fluvial flooding from either watercourse. The assessment also outlines that there are three areas which total 12 hectares with the potential to contribute surface water to the site from outwith the site boundary. It is also stated that there are two areas within the site with the potential of surface water ponding – recommended mitigation includes ensuring that ground levels are designed to shed away from buildings and towards landscaped areas/drainage outlets and that finished floor levels of properties should be raised above the immediately surrounding ground levels and where they cannot be raised, that consideration should be given to the use of water-resistant materials. The assessment concludes by stating that the site is not considered to be at risk from groundwater flooding or flooding from other sources.

**Drainage Strategy Report (March 2022):** This document sets out an examination of existing drainage infrastructure records, provides comment on natural watercourses and outlined guidance on the proposed drainage network, SUDS technique and anticipated allowable surface water run-off. It is stated that foul drainage will comprise of a combination of a gravity drainage system and pumped rising main to connect into the existing Scottish Water drainage system. It is further stated that it is intended that surface water run-off will be discharged into the existing storm water drainage system in the north of the site and to Annfield Burn in the south of the site. Discharge is proposed via two separate detention basins and would be limited to 37/s and 20.1l/s respectively (Qbar 2 year) and the site attenuated to 1 in 200 year with 35% climate change. Finally, the report outlines that proposed SUDS techniques would be in accordance with CIRIA C753, with any proprietary drainage systems maintained as per manufacturer recommendations.

**Preliminary Ecological Appraisal – Rev A (February 2022):** This study aimed to identify all broad habitat types within the application site boundary and included a search for suitable habitat for protected species and provides recommendations for further survey, where considered appropriate. It is stated that no designated or notable sites are present within the application site. A Provisional Wildlife Site and several ancient woodlands are present within 1km of the site boundary; however, the appraisal reasons that there would not be any effect on these areas due to their distance from the site and lack of functional connectivity. The appraisal states that the habitats and plant species recorded within the site boundary are widespread and common throughout the local area and that no further habitat assessment recommended. In respect of protected and notable species, it is outlined that features which have the potential to be used by roosting bats were observed on the more mature trees in the centre, north and east of the site and it is recommended that these trees are retained as part of any future development of the site. A Bat Survey is recommended if these trees are to be removed. Suitable bat foraging and commuting habitat is present in the form of woodland edges, hedgerows and open grassland within the site. Suitable nesting for birds is also present and any work should be undertaken outwith the bird nesting season, which runs from March to August inclusive. Finally, the appraisal states that should works at the site not commence prior to 27<sup>th</sup> July 2023 that further surveys should be commissioned in order to ascertain that the situation regarding protected species as the site has not changed.

**Updated Ecological Appraisal (April 2024):** This updated survey aimed to reaffirm the previously identified broad habitats within the site, search for protected species field evidence and identify suitable habitat to support protected or notable faunal species. It was found that the habitats and plant species recorded are stated as being widespread and common throughout the local region and that no further habitat assessment is recommended. Several of the more mature trees in the centre, north and east of the site displayed features that may have the potential to support roosting bats and it is recommended that these trees are retained – if they are to be removed then further bat assessment may be required. Evidence of badger foraging noted within the disused quarry. A pre-construction badger survey is recommended to be undertaken prior to any works commencing on site. Suitable nesting for birds is also present and any work should be undertaken outwith the bird nesting season, which runs from March to August inclusive.

**Utilities Overview (January 2018):** This report outlines the site and the proposed development, outlines the existing utilities and capacity overview and details potential diversions and future servicing. It is stated that the existing utilities infrastructure would appear to generally be sufficient to support the proposed development, subject to further liaison with the various providers and that waste water treatment capacity for foul water will require reinforcement. It is also stated that the High-Pressure gas pipelines located in the west of the site pose a significant constraint to the proposed development due to their strategic significance and it may not be feasible to divert, they pose a significant health and safety concern and should be considered throughout the detailed design and construction stages. The report also outlines that a number of major utility diversions may be required as part of the proposed development, including but not limited to, a medium pressure gas main, underground and overhead 33kV Extra High Voltage cabling, an overhead BT cable and localised diversions/lowering of any new access points to the site. Finally, it is stated that points of connection to each of the networks are anticipated to be formed adjacent to the site boundary or within a relatively short distance to the site.

**Geo-environmental Desk Study Report (January 2018):** The purpose of the study is to assess potential contamination and geotechnical constraints at the site and to provide outline recommendations for additional investigative works required to address any areas of uncertainty. The report states that the risk associated with the site is considered to be Low/Moderate in respect of potential risks to the water environment and that the site would not constitute Contaminated Land, as defined in Part 11a of the Environmental Protection Act. The future risk of the site is also stated as being Low/Moderate. The thickness and geotechnical properties of the underlying made ground, natural soils and rock is stated as being unknown and that glacial till soils covering the majority of the site are likely to provide a good founding solution. However, it is outlined that there is the potential for soft or compressible soils in the north west and east of the site which may require deep foundations. It is also stated that there is potential for the natural or made ground soils to be chemically aggressive towards concrete and that there is potential for the presence of shallow groundwater beneath the site. The report recommends that intrusive investigation works are undertaken to characterise the ground conditions. The report concludes by stating that trail pitting, drilling of boreholes, chemical analysis of soils, geotechnical analysis of soils, ground gas and groundwater level monitoring of borehole installations and collection of groundwater samples will be required.

**Socio-Economic Assessment (March 2022):** It is stated that the objective of this document is to demonstrate that the proposed development meets the aims of Strategic Policy 2 of LDP2, with this policy stating that development proposals that are contrary to specific LDP policies may be supported if they are '(1) of over-riding community interest or (2) will contribute significantly to the implementation of the Ayrshire Growth Deal (AGD) or the regeneration of Ayr and will have no significant adverse environmental effects'. The report states that the proposed development is in accordance with Strategic Policy 2 of LDP2 in that housing growth is required in order to counterbalance the key challenges faced by South Ayrshire in terms of population decline and that if this is not addressed it could compromise the success of the AGD. The report further concludes that the proposed housing would deliver direct and indirect employment opportunities which would help support a range of industries and provide housing in the area meaning that workers would not require to move further afield - which would increase commuting and reduce the local labour supply, which is crucial for the delivery of the AGD. It is reported that the construction value is estimated at £48m, first occupation expenditure (circa £10,000), household expenditure (circa £9m per annum) and Council Tax contributions of approximately £450,000 per annum. The assessment further reasons that by increasing the residential population it will aid the regeneration of Ayr town centre as the proposed development would increase the local spend supporting those industries reliant on the local population. Finally, the assessment outlines that the site is not within a sensitive area, as defined by the EIA Regulations and is not subject to any specific landscape or historic designations. No significant adverse environmental effects were identified in the technical reports prepared to support the planning application.

**Transport Assessment (March 2022):** This assessment sets out the development proposals, outlines the policy context, sets out an accessibility review, outlines a framework for a travel plan which would be developed and implemented at an appropriate time to promote sustainable travel at the proposed development, outlines travel demand and describes results from a traffic impact assessment. The assessment outlines that the predicted trip generation for the proposed development was established through reference to the TRICS database and that it is predicted that the proposed development would generate up to an additional 2023 and 210 vehicle trips in the morning and evening peaks respectively. The modelling assessment within the report considered two scenarios: the proposed development under consideration is delivered in advance of the consented Corton development and associated infrastructure and the proposed development being delivered after the implementation of the Corton development and associated infrastructure. The consented Corton development identified infrastructure mitigation measures for Holmston Roundabout and these measures formed the basis of all mitigation measures considered at Holmston Roundabout within this report. Principal vehicular access to the proposed development would be provided via a new arm of the existing A70/Dobbie's roundabout, with the roundabout requiring to be enlarged to accommodate this new arm. It is stated that should Corton and associated infrastructure be implemented in advance of the proposed development, that traffic associated with the development under consideration could be accommodated without further intervention. Should the development under consideration be brought forward prior to the Corton development, it is outlined that the following mitigation measures would need to be implemented at Holmston Roundabout: A70 east – widening of the entry approach lane to 10.7m, A77 South – widening of the entry approach lane to 10, A70 West (Holmston Road) – widening of the entry approach lane to 10.8m and alterations to the circulatory markings.

**Statement of Community Benefit (March 2024):** This statement is provided in response to the National Planning Framework 4 (NPF4) Policy 16 and outlines the benefits associated with the proposed development. The report states that the proposed development would support investment in and around Ayr and would contribute to community benefit in the following ways: provision of new high-quality homes (including 25% affordable on site), delivery of road and transport improvements to accommodate the proposed development and enhance the existing infrastructure, deliver an active travel overbridge, provision of new neighbourhood amenities for new and existing surrounding residents, support aspirations of AGD by providing new homes to attract skilled workforce and enhance the green network and provide high quality open space for the enjoyment of new residents and the existing community.

**Biodiversity Enhancement Plan (April 2024):** This document sets out measures to inform the indicative masterplan in order to create and manage habitats within the site to significantly enhance their suitability to support wildlife and significantly increase the overall biodiversity value of the proposed development. It is stated that the masterplan is indicative at this stage only, with it identifying the following areas of retained and enhanced habitats: existing retained woodland: 8,626 square metres, proposed new structural woodland: 26,664 square metres, proposed grassland (75% of which wildflower meadow) 80,945 square metres, proposed SUDS area developed as wet species rich grassland habitats: 6,470 square metres and proposed scattered and individual trees in open spaces: 422 specimens. It is further stated that there is also a commitment to delivering biodiversity through creating native hedgerows, native shrub planting and garden spaces as the masterplan develops. The document states that the site is currently dominated by modified grassland that has been subject to extensive livestock grazing resulting in a habitat of negligible ecological value. The report concludes by stating that with the areas of retained and enhanced habitats, together with the creation of native hedgerows, native shrub planting and garden spaces, that the opportunity to provide a positive Biodiversity Net Gain of at least 10% is considered achievable.

#### **4. S75 Obligations:**

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development. **None.**

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

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. **None.**

## **6. Representations:**

A total of 51 representations have been received, 50 of which object to the proposed development. 1 letter of support has also been received. It should be noted that a number of individuals lodged more than 1 letter; however, such representations are only counted once (for clarity, all matters raised in the other representations are considered within the planning assessment). All representations can be viewed online at [Application Summary](#)

The objectors have expressed principal concerns relating to the following, with the points raised summarised under the topic headings:

### **Planning Policy**

- Site is Green Belt land and therefore protected from development.
- Conservation site.
- Proposed development doesn't meet criteria of acceptable development in Green Belt.
- Site is not allocated in LDP and not within settlement boundary, also cannot be considered in accordance with Strategic Policy 2 – of over-riding community interest or contribute significantly to Ayrshire Growth Deal or the regeneration of Ayr.
- No need for further shops, focus should be on empty town centre shops.
- Contrary to Galloway and South Ayrshire Biosphere Reserve policies – quality agricultural land should be protected.

### **Traffic / Roads and Transportation**

- Road network is already congested in the area – the 3 roundabouts on A77, Whitletts, Holmston and Bankfield already busy and journey times are longer at peak times – proposed development will exacerbate existing problems on roads which can't cope with current levels of traffic.
- Submitted Traffic Survey (2018) is out of date and does not cover proposed housing at Ayr hospital, Bankfield Roundabout or Corton. Also, no mention of Crofthead Caravan Park upgrades/extension.
- Excessive traffic along Sandyhill Terrace towards crematorium and potential conflict with crematorium traffic.
- What are construction timeframes?
- Adverse impact on road/pedestrian safety - difficult to cross the A70 at present, no pavement at bus stop at bottom of crematorium road and proposed underpass is on other side of A70 from the Coylton to Ayr footpath.
- Emergency services vehicle access concerns.
- When bypass was constructed either side was reserved for future dual carriageway – underpass would require to be very long.
- A bridge across the A77 is preferable to an underpass.
- Existing underpass at River Ayr could be greatly improved.
- Free community buses from Coylton area should be provided to schools to reduce traffic.

### **Local Services/Local Community/Infrastructure**

- Existing infrastructure cannot cope – nurseries, hospital, GP's
- Submission states that there is school provision availability, this is not the case with children in the area unable to go local primary school.
- Proposed development will have adverse impact on character and identity of the area due to its scale.
- Water pressure, sewerage, utilities and drainage infrastructure could not cope with proposed development.

### **Flooding/Drainage**

- Proposed underpass is located in area which floods.
- Proposed development could create flooding issues nearby due to clay soil.

### **Ecology/Natural Environment**

- Habitat/biodiversity destruction – bats, badgers, hedgehogs, herons, bees etc.
- Underpass would destroy Marie Curie Cancer Care Field of Hope daffodils.
- The woodlands require a Tree Preservation Order.
- No assessment of potential hazardous waste/ dangerous goods within quarry due to past dumping – SEPA toxicity assessment required.
- Removal of trees/hedge rows does not aid carbon capture.
- Months of construction traffic and heavy machinery spewing pollutants into air not good for global warming.
- Soil disturbance takes 30 years to recover.

### **Landscape and Visual Impact**

- The proposed development would be overbearing and out of scale/character with the locale.
- Public visual amenity would be adversely affected, presently an area of Outstanding Natural Beauty.
- The LVIA does not highlight the impact that the proposed development could have to the crematorium and garden of remembrance.
- Indicative Spatial Masterplan shows a removal of hedgerows and trees from scenic route to crematorium.
- If approved, a buffer corridor of planting should be created to separate proposed housing and crematorium road.
- Angle of photograph from Crofthead Caravan Park entrance is absurd – housing would dominate skyline.

### **Amenity**

- The proposed development would surround a residential property, altering countryside setting.
- The proposed development will overlook adjacent properties to the detriment of their privacy.
- The proposed development will result in a loss of daylight / create overshadowing to adjacent properties.
- Proposed underpass would create anti-social behaviour in area with high elderly population.
- Development would create noise, dust, vibration and pollution.
- Light pollution from development and underpass.
- Masonhill Crematorium/remembrance garden is supposed to be a place of peace and tranquillity, proposed development would shatter this.

### **Inaccuracies/contradictions/anomalies within submission**

- Photographs of Ayr Cemetery included within submission in error.
- Indicative spatial masterplan drawing shows footpaths through the former quarry but Transport Statement states that there is a section of the site occupied by a quarry which is outwith the control of the applicant – this is therefore misleading.
- Within the submitted Utilities Report questioned why the drawings are stamped with 'this map image may not be used for planning use'.

### **Health and Safety**

- High Pressure Gas Main Pipe to the north and east of Cloverhill – development of the proposed underpass in this area would create risk to residents and road users.
- Overhead powerlines are present – would the gap between the proposed dwellings and the powerlines meet British Standards?
- On page 59 of submitted Utilities Report it is stated that SGN object to the proposed development – detailed consultation required.

### **Proposed Development**

- There is no need for the proposed housing.
- Local Authorities have duty to protect the living standards of local residents.
- Residents' considerations secondary to monetary gain.
- Inappropriate development so close to a crematorium.
- Extension of the town is not a positive improvement.
- Affordable housing should be 2/3 bed bungalows rather than 4/5 bed properties to accommodate downsizing of aging population.
- No provision of community/leisure facilities.
- What are construction timeframes? Disruption to residents and crematorium visitors.
- Food production and employment is required, not houses.

### **Consultation/Neighbour Notification**

- Neighbour notification not received/not received until after such time had read about the proposal in press/online.
- Lack of consultation – not widely publicised enough or enough time for objections to be made.

### **Other Matters**

- Loss of countryside view.
- Loss of property value.
- Application has been rejected before, should be again.
- What are the plans to keep the crematorium open should the development go ahead?
- The amount of new builds in Ayr is alarming – how many more will be allowed?
- Other developments which were approved questioned, future Space Centre fears, distrust of authorities.
- Progress with number of builds required to meet Scottish Government legislation – National Developments NPF4.
- UK Legislation ‘Bribery Act 2010’, South Ayrshire Anti-fraud and Anti-bribery Strategy 2021 – need assurances these will be implemented.

The single letter of support raises matters in respect of shortfall of energy efficient homes in South Ayrshire, that a wide variety of house types should be provided and that commercial ‘co-working’ spaces should also be considered.

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

## **7. Development Plan:**

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

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

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

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

- National Planning Framework 4 (NPF4)

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 following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-planning-framework-4/pages/1-introduction.aspx):

- Policy 1 – Tackling the Climate and Nature Crises
- Policy 2 – Climate Mitigation and Adaption
- Policy 3 – Biodiversity
- Policy 4 – Natural Places
- Policy 5 – Soils
- Policy 6 – Forestry, Woodland and Trees
- Policy 7 – Historic Assets and Places
- Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings
- Policy 12 – Zero Waste

## Regulatory Panel (Planning): 25 June 2024

Report by Housing, Operations and Development Directorate (Ref: 22/00302/PPPM)

- Policy 13 – Sustainable Transport
- Policy 14 – Design, Quality and Place
- Policy 15 – Local Living and 20 Minute Neighbourhoods
- Policy 16 – Quality Homes
- Policy 17 – Rural Homes
- Policy 18 – Infrastructure First
- Policy 22 – Flood Risk and Water Management
- Policy 25 – Community Wealth Building
- Policy 28 – Retail
- Policy 29 – Rural Development

The provisions of NPF4 must, however, be read and applied as a whole, and as such, no policies should be read in isolation. The application has been considered in this context and an assessment of the development proposal against the provisions of NPF4 follows.

- [South Ayrshire Local Development Plan 2 \(LDP2\)](#)

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

- LDP Policy Spatial Strategy
- Strategic Policy 1: Sustainable Development
- Strategic Policy 2: Development Management
- LDP Policy: Development Opportunities
- LDP Policy: Delivering Infrastructure
- LDP Policy: General Retail
- LDP Policy: Maintaining and Protecting Land for Housing
- LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites
- LDP Policy: Rural Housing
- LDP Policy: Affordable Housing
- LDP Policy: Landscape Quality
- LDP Policy: Preserving Trees
- LDP Policy: Green Networks
- LDP Policy: Flooding and Development
- LDP Policy: Agricultural Land
- LDP Policy: Air, Noise and Light Pollution
- LDP Policy: Heat Networks
- LDP Policy: Historic Environment
- LDP Policy: Natural Heritage
- LDP Policy: Land Use and Transport
- LDP Policy: Strategic Road Development
- LDP Policy: Outdoor Public Access and Core Paths

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.

## 8. Assessment:

This report is structured to assess the relevant and comparable policies within NPF4 and LDP2 in tandem under subject matters and then to consider any policies that are only in one part of the Development Plan separately. There are a number of key policies within NPF4 that are of specific relevance to an assessment of this application, some reinforce and confirm the stance established in LDP2, whilst others seek to achieve the same aims but by way of a different approach. It is considered that there are no fundamentally different overarching policy aims which would undermine or prevail against the provisions of LDP2's Strategic Policies for the assessment of this application. Having regard to the Development Plan, the key considerations are identified as follows.

## Principle of Residential Development

(**NPF4 Policies:** Policy 1: Tackling the Climate and Nature Crises, Policy 2: Climate Mitigation and Adaption, Policy 5: Soils, Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings, Policy 14: Design, Quality and Place, Policy 15: Local Living and 20-minute Neighbourhoods, Policy 16: Quality Homes, Policy 17: Rural Homes and Policy 29: Rural Development) (**LDP Policies:** Spatial Strategy, Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management, Maintaining and Protecting Land for Housing, Residential Policy within Settlements, Release Sites and Windfall Sites, Rural Housing and Agricultural Land)

The application site is located to the east of the settlement of Ayr, beyond the settlement boundary as defined in the adopted Local Development Plan (2022) and is key to note that it is not an allocated housing site or allocated for any other form of development.

The global climate emergency and the nature crises form the foundations of the NPF4 Spatial Strategy as whole and Policies 1 and 2 should be considered in this regard.

The principal element of the proposal is for some 350 residential units, 25% of which would be 'affordable'. **LDP Policy: Maintaining and Protecting Land for Housing** seeks to ensure that there is an effective 5-year supply of housing land (allocated housing sites) at all times during the Plan period. At the point of adoption of the LDP in 2022 and also in the latest South Ayrshire Agreed Housing Land Supply 2023/24, there was an effective 5-year land supply against both the LDP2 Housing Supply Target, and the housing target set out in NPF4 (the 'Minimum All Tenure Housing Land Requirement').

Moreover, evidence of insufficient 5-year housing land supply as a basis for approving housing development on unallocated housing sites is no longer a significant determining consideration. A decision by the Inner House of the Court of Session Ref. [2024] CSIH 11 XA41/23 on 3 May 2024 upheld the Scottish Ministers decision to refuse planning permission for housing on unallocated land at Mossend, West Lothian and confirms that **NPF4 Policy 16: Quality Homes** (f) supersedes and removes any LDP requirement to maintain a 5-year effective housing land supply.

Policy 16f (iii) point 1 states, with respect to development proposals for new homes on land not allocated for housing in the LDP, they will only be supported in certain circumstances including (extract):

*"delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained."*

The Court of Session decision confirms that where a deliverable-housing-land pipeline is not yet in place, as is the case in South Ayrshire at present, then the exception permitting development on unallocated sites in the circumstances set out above is not engaged. Notwithstanding, the applicant has not provided such evidence that there is earlier-than-expected delivery of allocated sites in the LDP. Indeed, it is not considered that such circumstances are in evidence for South Ayrshire, given the 2022 and 2023 housing land audit data which demonstrates that there is no shortfall in housing land supply and that sites are not being built out more quickly than expected. It is therefore considered that the proposal does not meet the requirements of policy 16f. The development proposal could undermine the viability and probability of pre-existing allocated and consented sites in the LDP being developed, most of which are within existing settlements and/ or on brownfield sites.

As the proposal does not comply with Policy 16 part f (iii) this means that the proposal is contrary to policy 16 as a whole. However, the proposal also does not comply with parts 1 and 2 of this policy in that (i) the proposal is not supported by an agreed timescale for build out and (ii) the proposal is not consistent with the spatial strategy of the Development Plan or other relevant policies including local living and 20 minute neighbourhoods.' These policies are considered elsewhere in this report.

The scope for housing on unallocated sites in the countryside such as the application site is generally limited in nature to small-scale development proposals under the principles of **LDP Policy: Rural Housing**. The proposed development under consideration does not however fall within such a 'small scale' definition and therefore could not be considered favourably under this policy. In a similar vein, **NPF4 Policy 17: Rural Homes** outlines that development proposals for new homes in rural areas will be supported where it is suitably scaled, sited and is on a site allocated for housing within the LDP. It has already been noted that the site is not allocated within the LDP.

Notwithstanding the above, LDP2 Strategic policies provide reference points for the identification of matters which may be of particular relevance in the assessment of all planning applications and matters that require particular scrutiny.

LDP2 has two overarching Strategic Policies which require to be considered in the assessment of all planning applications. Strategic Policy 1 relates to Sustainable Development, with Strategic Policy 2 considering Development Management. Strategic Policy 1 seeks to ensure that proposals:

- **Respect the character of the landscape and setting of settlements.** The application site was considered at a previous Local Plan Inquiry as part of the LDP2 process, where the site was dismissed at a time when other greenfield sites were allocated by the Reporter. One of the principal reasons was the impact that a housing development would have on the landscape and the setting of Ayr. The site is prominent within close proximity of Ayr, but the proposal suggests that development will rise up and over a local hill/ridgeline highpoint and therefore likely to be a visible and intrusive element in the wider landscape when viewed from considerable distance. An Assessment on the impact on the landscape is outlined elsewhere within this report.
- **Make efficient use of land and resources.** Although NPF4 has removed the requirement to maintain an ongoing 5-year effective land supply, there is not a housing shortfall within South Ayrshire. It is therefore considered that the development of this site would undermine the viability and probability of pre-existing allocated and consented sites being developed, most of which are within existing settlements and/ or on brownfield sites. Moreover, the application site is presently in active agricultural use and forms part of larger agricultural land holding. The proposed site comprises approximately 2 hectares of prime quality agricultural land; **NPF4 Policy 5 'Soils'** states that the development of prime quality agricultural land will only be supported in certain circumstances – where it is for essential infrastructure and there is a specific locational need, is small scale development directly linked to a rural business, farm or croft or the development of production and processing facilities associated with the land produce where no other site is available or for the generation of energy from renewable sources. The proposed development does not fall within any category listed as being one of those circumstances. **LDP Policy: Agricultural Land** is also of significance in relation to the consideration of the proposed development site. This policy states that prime quality agricultural land will be protected from irreversible development, unless developers can demonstrate that it is essential to the spatial strategy; necessary to meet an established need; of small scale which is directly related to rural business and for generating renewable energy. Prime quality agricultural land is Class 1, 2 or 3.1 in the land capability classification for agriculture developed by Macaulay Land Use Research Institute (now James Hutton Institute). Although the application site comprises predominantly Class 3.2, a sizeable element (approximately 2ha as outlined above) is prime quality agricultural land. The application under consideration is therefore not considered to meet the above aforementioned criteria, as there is not a need for the proposed housing, it is not directly related to rural business and does not propose the generation of renewable energy. Given that there is no shortfall in housing land, and the site is in active agricultural use, its development for housing is not considered to represent an efficient use of land and resources.
- **Contribute to an efficient use of, or provision for public services, facilities and infrastructure.** As outlined above, given that there is no shortfall in housing land supply, any requirement for additional services, facilities or infrastructure as a consequence of the development is not considered to be efficient. In effect, there would need to be investment in providing additional or enhanced facilities / infrastructure etc to provide for a development which in itself is not necessarily required. This issue is considered further within the Impact on Traffic and Transportation section of this report.

- **Embrace the principles of ‘place making’ and the ‘6 qualities of Place’.** The proposed development is for an in-principle consideration and so lacks the detail against which to fully assess the principles of place making (a term superseded by ‘place principle’ in NPF4). Notwithstanding, a high-level assessment can be undertaken as follows. **NPF4 Policy 15: Local Living and 20-minute Neighbourhoods** seeks to promote and facilitate the application of the Place Principle. Given that the proposed development would make provision for a connection to Ayr via an underpass that incorporates wheeling, cycle and pedestrian access to the existing radiating routes from Ayr, it is acknowledged that there is potential to meet some of the principles of local living. However, the potential to create sustainable transport links and proximity to facilities does not outweigh the fundamental stance NPF4 takes against the development of a greenfield site. Whilst there is a proposal to connect the site to Holmston, Ayr via an underpass, there is significant doubt over the technical feasibility and financial deliverability of this proposal. This being a planning permission in principle no detailed information has been presented to establish that this connection is feasible/deliverable. Being able to provide sustainable pedestrian and cycle links to Ayr is a critical factor in assessing the overall suitability of this site for housing development. At this time there is doubt that this can be achieved, and the proposals are therefore contrary to NPF4 policy 15. **NPF4 Policy 14 ‘Design, Quality and Place’** seeks to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the ‘Place Principle’, which demonstrates the six qualities of a successful place; healthy, pleasant, connected, distinctive, sustainable and adaptable. It sets a standard for development proposals centred around ‘quality’, with an expectation for proposals to be well designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places would not be supported by the policy. It is considered that the proposed underpass would be contrary to the aims of this policy, being as it would require to be of considerable length due to the width of the A77, thus creating an unpleasant means of linkage to the settlement of Ayr that would not benefit from any overlooking/ natural surveillance. Users can perceive underpasses to be an environment that is unsafe and unwelcoming. Underpasses are not considered a modern or encouraged design solution to aid connectivity, for these reasons. This matter is reasoned further within the Impact on Traffic and Transportation section of this report.
- **Wherever possible are in an accessible location, with opportunities for the use of public transport and other sustainable transport modes, including cycling and walking.** As noted above, it is proposed that the site would be connected to Ayr via an underpass beneath the A77 measuring approximately 20m in length x 6m in width as indicated on the submitted drawings. The site is also located in an area with good sustainable public transport links and the indicative masterplan illustrates overground road/ footpath connections which will aid permeability of the site. It is noted that a high-pressure gas pipeline exists in close proximity to the proposed underpass and SGN request a condition is attached to any consent in this regard.
- **When considering development proposals, due weight will be given to the consideration of net economic benefit.** Given the generally negative balance of factors relative to the suitability of the application site for residential development, as outlined above, the submitted supporting statement seeks to part justify the proposal against the terms of the final bullet point of Strategic Policy 1. It is not disputed that the proposed residential development represents an economic benefit. However, the policy seeks to promote the consideration of **net** economic benefit. As aforementioned, there is no requirement for the development of the site as there is no shortfall of housing land. It is therefore reasonable to assume that the development of the application site would replace / substitute development elsewhere in South Ayrshire, rather than result in additional construction over and above that which is otherwise programmed or anticipated. It is considered that there is no evidence to suggest that the development would result in a net economic benefit, rather a replacement of benefits that would accrue from the development of housing on other pre-existing allocated/permitted residential development sites.

In respect of LDP2’s second overarching Strategy policy, **Strategic Policy 2: Development Management** also provides assessment criterion for development proposals. Of particular relevance to this application, this policy states that the Council will ensure that development proposals:

- **Promote and facilitate the ability of LDP2 to deliver and achieve its aims to ‘make the most of sustainable economic growth that is supported by sound social and environmental objectives’.** As outlined within Strategic Policy 1 above, the proposal represents development of a type which is not necessary, relative to the maintenance of an effective housing land supply and may therefore lead to a simple substitution of growth that would otherwise take place elsewhere in South Ayrshire rather than in any **net** increase.

- **Are in accordance with the site's land use, as defined on the proposals map.** The application site is outwith the settlement boundary of Ayr and is therefore not defined on the proposals map. **NPF4 Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings** also outlines that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP.
- **Are appropriate to the local area in terms of road safety, parking provision and effects on the transport network.** Transport matters are considered elsewhere within this report under specific related policies of NPF4 and LDP2 in this regard.
- **Make appropriate provisions for all infrastructure implications of the development.** The requirement for the proposal to meet all infrastructure requirements is a standard requirement for any development. However, the LDP has allocated sites in locations where infrastructure and community facilities are either already available or are planned as part of/directly consequential to those allocations. The development of a site which may replace rather than supplement development elsewhere does not allow for appropriate provision for such infrastructure and facilities required, and instead results in an ad-hoc piecemeal response. This runs counter to the provisions of a plan led development system. Significantly, the applicant has not demonstrated how the impact of the development will be mitigated on education provision and together with the significant doubt regarding the provision of pedestrian and cycle connectivity to the site and dualling of the A77 between Whittleys and Holmston Roundabouts, means that the proposal fails to make adequate provision on this criteria.
- **Are located within a settlement boundary or otherwise justified by LDP subject specific policies or locational need.** The LDP makes provision for proposals to be justified when outwith a settlement boundary. Within such a context, the subsequent and final bullet point of LDP2 Strategic Policy 2 is referenced by the applicant in their supporting statement.
- **'If contrary to specific LDP policies are justified to our satisfaction, on the basis that they are; 1 of over-riding community interest, or 2 will contribute significantly to the implementation of the Ayrshire Growth Deal or the regeneration of Ayr; and will have no significant adverse environmental effects.**

In considering objections to LDP2, the Reporter noted that there had been representations made by housebuilders seeking allocations and an increased housing target relative to the prospects of the Ayrshire Growth Deal (AGD) job creation. The Council's response at that time was that the AGD is a long-term project and that maintaining the 5-year effective housing land provides a robust mechanism for the consideration of whether sufficient land is available for housing – or additional sites may be justifiable. The Reporter was satisfied with the Council's reasoning on its Housing Target figures and approach being advocated. The Reporter did not allocate any additional sites or advise the Council to identify additional sites as part of the Inquiry process. Therefore, whilst the final bullet point above provides scope for a reasoned and justifiable departure from the established position relative to housing numbers, it is readily evident that there is no requirement to do so at this point in time. In any case, NPF4 supersedes the requirement to have an effective 5-year housing land supply. Indeed, the release of additional housing land would potentially undermine the development of other sites in more sustainable locations, contrary to the intent to regenerate Ayr, and result in the development of a site with undeniably adverse landscape and visual impacts - as reasoned elsewhere within this report.

The proposed development is considered as being clearly contrary to provisions of the development plan (comprising NPF4 and LDP2). The proposal relates to the development of a greenfield site for residential development at a time when there is no justification for any additional greenfield site releases for the purposes of housing. Strategic Policy 1 and Strategic Policy 2 provide for the release of sites for development where this is justified in terms of net economic benefit, of over-riding community interest, contribute significantly to the implementation of the Ayrshire Growth Deal or the Regeneration of Ayr and will have no significant adverse environmental effects. Given the overall development plan position, providing certainty of development through allocated housing sites, any justification brought forward under this policy requires substantial demonstrable evidence of net economic benefit. No such convincing justification has been submitted with this application. Notwithstanding, progress of the South Ayrshire Growth Deal sites have stalled including the spaceport and Mangata satellite manufacturing have withdrawn from the site that obtained planning permission Ref. 22/01021/APPM therefore the applicants justification that the proposed housing would aid the delivery of the Ayrshire Growth Deal relative to South Ayrshire is unfounded, and possibly premature, at this time. Furthermore, there is no shortfall in housing land or the provision of new homes as defined either through the provision of NPF4 or LDP2, and there is no evidence to suggest that the development of the site would do anything other

than undermine the delivery of the pre-existing housing land supply, i.e. no net economic benefit of the proposed development has been demonstrated.

## **Principle of Commercial Development**

**(NPF4 Policies:** Policy 15: Local Living and 20 Minute Neighbourhoods and Policy 28: Retail) **(LDP Policies:** Spatial Strategy, Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management and LDP Policy: General Retail)

The proposal under consideration also includes the provision of a maximum of 1,000 square metres of neighbourhood commercial uses (incorporating Class 1 Retail, Class 2 Professional Services, Class 3 Food and Drink and Class 4 Office). **NPF4 Policy 28: Retail** and **LDP Policy: General Retail** both promote a town centre first policy in respect of retail facilities. In relation to retail facilities outwith a town centre, the LDP Policy on General Retail outlines that the Council will only consider locations outside of town centres if the development proposed is less than 1,000 square metres gross floorspaces and meets local neighbourhood needs. In this instance, the commercial centre is proposed to provide amenities to the new resident population to walk to. **NPF4 Policy: Local Living and 20 Minute Neighbourhoods** seeks to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home. As part of the overall application, the commercial element may be justifiable under the provisions of the above policies, if and only if, the principal residential element was considered to be acceptable/ justifiable, and it has been reasoned that this is not the case.

## **Impact on Landscape Character and Cultural Heritage**

**(NPF4 Policies:** Policy 7: Historic Assets and Place and Policy 14: Design, Quality and Place) **(LDP Policies:** Strategic Policy 1: Sustainable Development, LDP Policy: Landscape Quality and LDP Policy: Historic Environment)

**NPF4 Policy 7: Historic Assets and Places** and **LDP Policy: Historic Environment** both seek to protect and enhance historic environment assets and places, recognising the social, environmental and economic value of the historic environment to our economy and cultural identity. In detail, The **LDP Policy on Historic Environment** sets out that listed buildings and their settings should be protected and provides support for proposals which encourage the sensitive maintenance, restoration and reuse of such buildings. The proposed development would be visible at various distances and the character of the landscape would change from agricultural to urban. The **LDP Policy on Landscape Quality** seeks to maintain and improve the quality of South Ayrshire's landscape. Development proposals must conserve features that contribute to local distinctiveness including community settings (including the approaches to settlements), buildings within the landscape, patterns of woodland, fields, hedgerow and tree features, special qualities of rivers, estuaries and coasts, historic landscapes and skylines and hill features (including prominent views). The application site is sizeable at approximately 34 hectares and it is recognised that a development of the proposed magnitude would result in a significant landscape and visual impact, particularly given its prominent location relative to the confluence of A77 Trunk Road and A70 and the elevated nature of the topography to the middle of the site. A key issue relative to landscape impact is that the site was rejected by the Reporter during the assessment of sites relative to LDP2 due to it being considered that the site was very prominent within the landscape. In addition, **LDP Strategic Policy 1: Sustainable Development states** that development should respect the character of the landscape and respect, protect and where possible, enhance natural, built and cultural heritage resources. Whilst it is noted that no objection has been received from Historic Environment Scotland (there are no historic features within or close to the application site) or the West of Scotland Archaeology Service following consultation, the character of the landscape would be undeniably altered as a result of the proposed development and given that the application site is not allocated within the LDP, it is considered that the proposed development is therefore contrary to the provision of **LDP Policy: Landscape Quality** and **Strategic Policy 1** due to the adverse impact that the proposed development would have on the skyline/hill features.

## Impact on Natural Environment

(**NPF4 Policies:** Policy 1: Tackling the Climate and Nature Crises, Policy 2: Climate Mitigation and Adaptation, Policy 3: Biodiversity, Policy 4: Natural Places, Policy 5: Soils and Policy 6: Forestry, Woodland and Trees) (**LDP Policies:** LDP Policy: Landscape Quality, LDP Policy Preserving Trees, LDP Policy Agricultural Land, LDP Policy Air, Noise and Light Pollution and LDP Policy: Natural Heritage)

With respect to NPF4, there is a clear policy emphasis at all levels towards tackling the climate crisis, with a strong drive towards 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. **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 sustainably 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 Policies 3 and 4** protect seek to protect and to positively enhance biodiversity and natural assets, which in turn play a crucial role in carbon reduction. **NPF4 Policy 5: Soils and LDP Policy: Agricultural Land** both seek to protect prime agricultural land from irreversible development. **NPF4 Policy 6** and **LDP Policy: Preserving Trees** both seek to protect woodland and trees and require compensatory planting for any trees which are removed to accommodate development.

**LDP Policy Air, Noise and Light Pollution** states that we will not allow development which would expose significant numbers of people to unacceptable levels of air, noise or light pollution. Noise, vibration and dust arising during the construction phase have the potential impact on the amenity of the residential properties that adjoin the site. However, it is noted that the Council's Environmental Health Service offers no objection to the proposed development and it is also noted that all development involves a degree of temporary disruption during the construction period. **LDP Policy Natural Heritage** sets out protections for natural heritage sites, protected species and other features of nature conservation value – including woodlands, hedgerows, lochs, ponds, watercourses, wetlands and wildlife corridors, with development proposals which affect such sites or species only being permitted if certain criteria are met.

The applicant has submitted a Preliminary Ecological Appraisal (March 2022) and Geo-environmental Desk Study Report (January 2018) in support of the planning application. The Council's Ecology Consultants, AECOM, have viewed these documents and provided initial comment that they would expect an Ecological Impact Assessment (EclA) to be undertaken and that an assessment of the use of the site by roosting and foraging bats is likely required to inform the EclA. It is a key consideration that surveys for European Protected Species, including bats, cannot be conditioned and therefore must be undertaken prior to the planning application being approved. Surveys carried out for the Preliminary Ecological Appraisal Report (PEAR) took place in January 2022 and NatureScot consider ecological surveys to be out of date after 2 years – surveys reported in the PEAR should therefore be repeated as conditions on site may have changed.

As a result of these comments the agent submitted an updated Ecological Appraisal on 18<sup>th</sup> April 2024. This identified that there are trees with potential to support roosting bats in the site and that these may be subject to lopping or felling. However, as this is an application for Planning Permission in Principle, it would be reasonable to condition that further survey to confirm the presence of roosting bats be carried out if works to these trees are needed and should the application be approved. However, any such further survey should be completed prior to determining the application for full planning permission, as it is not possible at this time to condition surveys for European Protected Species (which includes bats). AECOM also noted that there continues to be limited assessment of potential effects on nature conservation sites. There are areas of ancient woodland under 1km from the application site and such areas are vulnerable to pressure from increased visitor numbers, especially dog walkers, that can arise from new housing developments. The potential for such impacts should be considered and appropriate mitigation outlined, if necessary. However, as this is an application for Planning Permission in Principle, it would be possible for this to be carried out as part of an application for detailed planning permission (should this application be approved).

A Biodiversity Enhancement Plan was also submitted by the agent in April 2024. This document sets out recommendations that the proposed development could implement, including: retained and enhanced habitats, creation of native hedgerows, native shrub planting and garden spaces. It is considered that the opportunity to provide a positive Biodiversity Net Gain of at least 10% is achievable but an appropriately worded condition should be attached in this regard if the application is approved.

## Impact on Water Environment

(**NPF4 Policy 22:** Flood Risk and Water Management) (**LDP Policy:** Flooding and Development)

Both of these policies state that development should avoid areas which are likely to be affected by flooding and that proposals must include Sustainable Urban Drainage Systems (SUDS). In this regard, the application is accompanied by a Flood Risk Assessment and Drainage Strategy Report (both dated March 2022) and it is noted that SEPA and the Ayrshire Roads Alliance (as Flood Authority) offer no objections to the proposed development on flood grounds. The submitted indicative masterplan for the site also highlights SUDS on land to the north-west and south-east of the application site. As such, it is not considered that the development (in principle) would result in a risk of flooding and that it is therefore in accordance with these policies.

## Impact on Traffic and Transportation

(**NPF4 Policies:** Policy 13: Sustainable Transport, Policy 14: Design, Quality and Place and Policy 18: Infrastructure First) (**LDP Policies:** Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management, LDP Policy: Delivering Infrastructure, LDP Policy: Land Use and Transport and LDP Policy: Strategic Road Development)

**NPF4 Policy 18: Infrastructure First** seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking and requires the impacts of development proposals on infrastructure to be mitigated. Proposals would be supported where they provide for or contribute to infrastructure in line with that identified as necessary in LDPs and their delivery programmes. In a similar vein, **LDP Policy: Delivering Infrastructure** states that the Council will expect all new development proposals to include measures to ensure the provision of any off-site infrastructure which is necessary to accommodate the development and therefore make the development acceptable in planning terms, without placing an extra burden on the existing community.

**LDP Policy: Strategic Road Development** states that where development may involve or affect the strategic road network, we will support proposals that:

- do not adversely affect the efficiency and safety of the relevant sections of the network;
- ensure that strategic traffic flows will be channelled onto the strategic road network as defined in the spatial strategy;
- ensure that, where required, the necessary improvements to the A77 throughout South Ayrshire are carried out to support development in compliance with the LDP; and
- where applicable, improve the capacity and safety of other parts of the strategic network, including providing traffic relief for communities and protect the land necessary for improvements to the network.

It is key to once again outline the fact that the application site is not included within the Council's adopted LDP as an allocation. Following consultation, the Ayrshire Roads Alliance state that South Ayrshire Council (with support from the Ayrshire Roads Alliance and in discussion with Transport Scotland) are currently progressing a Traffic Study to identify the cumulative impacts of LDP2 housing release sites on the strategic road network, principally the A77 trunk road corridor. At present, work on identifying a suitable package of mitigation measures remains ongoing. The testing scenarios included within the applicant's submitted Transport Assessment are: Base plus Committed Developments (not including Corton), Base plus Committed Development (Not including Corton) with the proposed development, Base plus Committed Developments including Corton development and Base plus Committed Development including the proposed development and Corton development. As work on the cumulative impacts and associated package of mitigation measures associated with allocated LDP2 sites is ongoing, the ARA has confirmed that they are not currently able to fully assess whether the proposed development currently under consideration and its associated mitigation requirements can be accommodated without prejudicing the future release of LDP2 allocated sites. The ARA recommend deferral of the application until such time as the Council's LDP2 Traffic Study is concluded, the package of cumulative mitigation measures has been identified and agreed with Transport Scotland and associated indicative cost contributions allocated to individual LDP2 sites. However, the applicant has stated that they wish to proceed to determination. There are also concerns with the dualling of the A77 (as required by Transport Scotland) between Whitletts and Holmston roundabouts as it has not been demonstrated at this time that it is viable and deliverable. In light of this, it is considered that the development proposal is contrary to **NPF4 Policy 18: Infrastructure First** and **LDP Policies: Delivering Infrastructure and Strategic Road Development**.

It is noted that Transport Scotland offer no objections, subject to conditions, to the proposed development should the application be approved. The proposed conditions relate to the number of units not exceeding 350, that an overbridge be completed across the A77 prior to the occupation of any part of the development, modification of Holmston Roundabout, improvements to the A77 trunk road (dualling between Whitletts and Holmston Roundabouts), details of lighting and landscaping treatment.

It should be noted that the applicant was in separate discussion with Transport Scotland during the processing of the application, which did not include the Planning Service. Proposals for an overbridge were presented, with overbridge plans referenced in the Transport Scotland consultation response. An overbridge was not considered within the assessment of the planning application because an overbridge does not form part of the development proposals or pre-application consultation. It is therefore not possible to condition a requirement for the proposed overbridge, as requested initially by Transport Scotland, if planning permission was approved. An overbridge would be development requiring planning permission. The Planning Service subsequently sought comment from Transport Scotland in relation to what had been applied for, that is, an underpass as opposed to an overbridge. Transport Scotland confirmed that they would consider the development unacceptable without an appropriate active travel connection but that they would consider an underpass to represent an acceptable connection. Notwithstanding, Transport Scotland do note that they hold concerns over the viability of an underpass solution based on their discussions with the applicant (discussions of which the Planning Service were not involved). Should this permission in principle application be approved, it would require to be subject to a separate application made under Matters Specified in Condition that requires construction design details of the underpass to be provided at the subsequent detailed application stage.

Whilst it is noted that the Transport Scotland position is one of no objection subject to conditions, which is contrary to the position taken by the ARA (as Council Roads Authority) who recommend referral for the reasons outlined above, it is the view of the Planning Service that the development proposal is premature due to the position expressed by the ARA in respect of the outstanding A77 Traffic Study.

The Council's Education Service has serious concerns with the application and specifically that the proposal would encounter significant pupil placement challenges if development is progressed. Although SAC Education do not anticipate any problems with accommodating pupils requiring a denominational education at either Queen Margaret Academy or at St John's Primary School, both catchment non-denominational schools are at capacity and, based on current rolls, will not be able to accommodate the anticipated number of non-denominational pupils arising from the proposed development. The product of 350 homes (circa 108 primary pupils and 67 secondary pupils) would most likely be accommodated and mitigated through school extensions, rather than a new build school provision. However, there has been no resource committed by the Council to undertaking a feasibility study at this time on a further extension of either Forehill PS or Kyle Academy, due to the fact that the planning application is not an allocated site, is significantly contrary to the Development Plan and is being recommended for refusal.

While it is considered that the pupil placement challenges could potentially be mitigated through extensions being built to both Forehill PS and Kyle Academy, the cost would be substantial, and the applicant has not presented any mitigation proposals as part of this application e.g. financial contributions to fund extensions Forehill PS or Kyle Academy. There are also serious concerns about whether there is the space and capacity to extend Forehill PS, this has not been determined at this time. The applicant would be required to comply with NPF4 Policy 18: Infrastructure First and LDP Policies: Delivering Infrastructure and Strategic Road Development and address the pupil placement challenges should this application be approved contrary to the recommendation of the Planning Service. This would need to be done through a Section 75 Legal Agreement and this would require to be concluded prior to the issuing of any consent.

**NPF4 Policy 13: Sustainable Transport** and **LDP Policies: Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management and Land Use and Transport** all seek to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably. The proposal for an underpass connecting the application site with Holmston, Ayr is considered to provide for sub-standard sustainable connection and there are significant doubts over its deliverability. With respect to other overground road/ footpath connections identified within the indicative masterplan, the Service is satisfied that these are acceptable in principle and provide opportunities for connectivity and permeability of the site.

Moreover, **NPF4 Policy 14: Design, Quality and Place** seeks to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the 'Place Principle', which demonstrates the six qualities of a successful place; healthy, pleasant, connected, distinctive, sustainable and adaptable. As outlined elsewhere, within this report, the proposed development is not considered to represent a sustainable use of the land due to the fact that the site is not allocated within the LDP. Notwithstanding, it is acknowledged that the application site is well connected to the settlement of Ayr in respect of public transport provision, with several local bus services travelling into the town via the A70. It is also noted that the indicative masterplan promotes active travel routes linking public open spaces with the wider footpath network. A continuous footpath/cycle route circles the proposed development and connects west to Holmston, Ayr via a proposed A77 underpass. Whilst it is acknowledged that this proposed underpass provides some means of sustainable active travel pedestrian/cycle link to the settlement of Ayr, an underpass is not considered to represent a pleasant or welcoming link given the nature of it and that there would be no natural overlooking or surveillance. It is considered that this would result in the perception of the underpass being an unsafe environment. Women's safety (as specifically referenced within NPF4 Policy 14) is of relevance as it is not considered that an underpass complies with this policy for the reasons noted. Underpasses are not considered to be a modern design response/ solution to creating well connected, safe, pleasant, distinctive and welcoming spaces. It is considered that the proposed underpass is therefore contrary to **NPF4 Policy 14**. The underpass is also considered to be contrary to **NPF4 Policy 18 Infrastructure first and LDP Policy Delivering Infrastructure** as there are concerns as to whether the development can be mitigated in terms of ensuring a sustainable link between the site and Holmston, Ayr due to doubts surrounding viability and deliverability of the proposed underpass.

In view of the above, the proposed underpass is considered to be contrary to NPF4 Policies 14: Design, Quality and Place, 18: Infrastructure First, LDP Policies: Delivering Infrastructure, Strategic Policy 1: Sustainable Development and Strategic Policy 2 due to representing a form of development which does not meet the terms of the six qualities of successful places, in particular respect of healthy and pleasant. Moreover, there are concerns as to whether the development can be mitigated in terms of ensuring a sustainable link between the site and Holmston, Ayr due to doubts surrounding viability and deliverability of the proposed underpass.

### **Material Considerations**

#### Planning History

03/01036/OUT – Erection of residential development – Withdrawn April 2005.

#### Other Policy Considerations (including Government Guidance)

**Designing Places:** This Policy document sets out the role of the planning system in delivering the Scottish Government's aspirations for design and making places. 6 key qualities are identified which make a successful place – distinctive, welcoming, safe and pleasant, adaptable, easy to get to and resource efficient. It is considered that the proposed pedestrian/wheeling underpass which links the proposed development to the settlement of Ayr runs counter to these aims being as it would create an area where there is no natural surveillance and so individuals would not be readily seen and underpasses are spaces which are not regarded as being welcoming or attractive and where individuals may not feel particularly safe.

**Planning Advice Note 77: Designing Safer Places:** This guidance should be read in conjunction with 'Designing Places' guidance and highlights the role that planning can play in helping to create attractive, well-managed environments which help to discourage antisocial and criminal behaviour. 6 key qualities are reiterated which make a successful place – distinctive, welcoming, safe and pleasant, adaptable, easy to get to and resource efficient. It is outlined that developers should take a pro-active approach to minimise the opportunity for crime in their developments. The document further states that pedestrian routes should have an open aspect, be well lit and give a good level of surveillance. For the aforementioned reasons, it is considered that the proposed underpass is contrary to the aims outlined within the document.

**Creating Places:** Creating Places is the Scottish Ministers' policy statement on architecture and place, which contains policies and guidance on the importance of architecture and design. It considers 'place' to comprise: the environment in which we live, the people that inhabit these spaces and the quality of life that comes from the interaction of people and their surroundings and states that architecture, public space and landscape are central to this. While the creation of a successful place results from the interaction of a wide range of factors, in this case, the proposed underpass is considered to be a key sustainable link to the settlement of Ayr and has the potential to create an unattractive space.

**Secured by Design:** This is a UK police initiative designed to help create safer, more secure environments. To be awarded Secured by Design status, developments must meet a set of core principles – environmental quality and sense of ownership, natural surveillance, access and footpaths, lighting and open space provision and management. For the aforementioned reasons, it is considered that the proposed underpass would not be in accordance with these principles.

### Representations Received

The representations in objection to the application have been summarised into topic areas as captured in section 6 above and are responded to below.

### **Planning Policy**

- The application site is not located within the Green Belt, rather, it is a greenfield site.
- The application site is not located within a conservation area and does not form part of any specific ecological designation or categorisation.
- An assessment of the application against the merits of Strategic Policy 2 and relevant retail policies has been set out elsewhere within this report.
- The application site is not located within the Galloway and Southern Ayrshire Biosphere. Although a relatively small proportion of the application site forms prime agricultural land (approximately 2 hectares), it is not considered that its loss is merited in this instance due to the application site being an unallocated site and there being no shortfall in housing land supply.

### **Traffic / Roads and Transportation**

- The Ayrshire Roads Alliance (ARA) were consulted on the application (as Council Roads Authority), and it is noted that they have offered a deferred stance. As outlined elsewhere within this report, the ARA cannot fully appraise the development proposal from a traffic perspective. Whilst the impacts of traffic can be tested, any mitigation should be taking cognisance of the LDP2 mitigation measures to make sure it does not prejudice or conflict the delivery of mitigation deemed to be required to support the release of allocated sites. The ARA are yet to conclude the Traffic Study work on LDP2 with Transport Scotland and the application cannot therefore currently be fully assessed relative to traffic and transportation issues. The ARA consider it premature to assess the site whilst the aforementioned work remains outstanding.
- In respect of construction timeframes, these would only be known at a later stage should planning permission be granted.
- The proposed underpass is approximately 20m in length (as measured from the submitted Indicative Spatial Masterplan). An underpass is not considered to represent a 'safe and pleasant' means of connecting the proposed development to the settlement of Ayr, as referenced elsewhere within this report.
- In respect of a bridge being preferable to an underpass, the Planning Service concur with this view. However, a bridge does not form part of this application development proposal.
- In relation to the existing underpass at the River Ayr requiring improvement, this is not within the application site boundary and does not form part of this development proposal.
- Finally, in respect of free community buses from Coylton being provided to schools to reduce traffic, this would be a matter for the applicant to consider.

### **Local Services/Local Community/Infrastructure**

- In respect of infrastructure capacity, it is noted that Scottish Water and SEPA offer no objection to the proposed development.
- The Council's Schools and Service Support Services (Education) has expressed serious concerns and state that the proposal presents significant pupil placement challenges. It is outlined that both catchment non-denominational schools are at capacity and, based on current rolls, would not be able to accommodate the anticipated number of non-denominational pupils arising from the proposed development. Please refer to the assessment under Policy 18 above and the assessment section of this report.
- As outlined elsewhere within this report, the character of the landscape would alter significantly as a result of the development proposal.

### **Flooding/Drainage**

- A Flood Risk Assessment and Drainage Strategy Report have been submitted in support of this application and it is noted that neither SEPA or the ARA (as Flood Authority) object to the proposed development on flooding grounds.

### **Ecology/Natural Environment**

- The application site is not subject to, nor does it form part of any specific ecological designation or categorisation. The Council's Ecology Consultant (AECOM) have been formally consulted and engaged as part of the assessment of this planning application. As outlined elsewhere within this report, AECOM advised that they would expect an Ecological Impact Assessment (EclA) to be undertaken and that assessment of the use of the site by roosting and foraging bats is likely required to inform the EclA. **It is a key consideration that surveys for European Protected Species, including bats, cannot be conditioned and therefore must be undertaken prior to any detailed planning application being approved.** Surveys carried out for the Preliminary Ecological Appraisal Report (PEAR) took place in January 2022 and NatureScot. consider ecological surveys to be out of date after 2 years – surveys reported in the PEAR should therefore be repeated as conditions on site may have changed. As a result of these comments the agent submitted an updated Ecological Appraisal on 18<sup>th</sup> April 2024 and AECOM provided further comment. AECOM note that there continues to be limited assessment of potential effects on nature conservation sites. There are areas of ancient woodland under 1km from the application site and such areas are vulnerable to pressure from increased visitor numbers, especially dog walkers, that can arise from new housing developments. The potential for such impacts should be considered and appropriate mitigation outlined, if necessary. However, as this is an application for Planning Permission in Principle, it would be possible for this to be carried out as part of application for detailed planning permission.
- In respect of the proposed underpass destroying the Marie Curie Cancer Care Field of Hope daffodils, this would be a private matter for the applicant to consider.
- No application for a Tree Preservation Order at the site has been made.
- In respect of the disused quarry and potential waste, SEPA has offered no objection to the proposed development following consultation.
- The applicant has submitted a Biodiversity Enhancement Plan (April 2024) in support of the application which outlines that the site is currently dominated by modified grassland that has been subject to intensive livestock grazing resulting in a habitat of negligible ecological value. The Council's Ecology Consultant (AECOM) provided comment on this document and note that the plan sets out recommendations for a wide range of measures that the proposed project could implement and consider that these are all proportionate to the scale of the proposed development, although also note that Scots Pine should be replaced by an alternative species as it is not native to South Ayrshire. Moreover, although recommendations are made for provision of a range of wildlife refugia, no commitment is given to numbers of such features to be provided. This should be stated in the final version of the Biodiversity Enhancement Plan at detailed planning stage to be clear the level of enhancement being provided. In light of the above, it would appear that the proposed development does provide an opportunity to provide a positive Biodiversity Net Gain.
- Any disruption during the construction phase would be of a temporary nature only and cannot be considered within the assessment of the planning application.
- Soil disturbance recovery time is noted.

### **Landscape and Visual Impact**

- The application site was considered at a previous Local Plan Inquiry, where the site was dismissed at a time when other greenfield sites were allocated by the Reporter. One of the principal reasons was the impact on landscape and the setting of Ayr. The site is prominent within close proximity, but the proposal suggests that development will rise up and over a local hill/ridgeline highpoint and therefore likely to be a visible and intrusive element in the wider landscape when viewed from considerable distance.
- The application site is not subject to, nor does it form part of any specific designation or categorisation.
- It is considered that a full assessment on the impact that the proposed development would have on the landscape can be undertaken within the application submission.
- The application submission outlines that existing vegetation and field boundary trees are to be retained to preserve site character and ecological assets. The Indicative Spatial Masterplan is a strategic plan as opposed to a detailed landscape plan.
- The Indicative Spatial Masterplan highlights proposed structure planting between the crematorium and the proposed site. However, should the application be approved, landscape considerations would be assessed through any subsequent matters specified in conditions application.
- It is considered that the proposed housing would be viewable from the entrance to Crofthead Caravan Park.

### **Amenity**

- The proposed development would surround a residential property and their countryside setting would undoubtedly be impacted upon.
- As the development proposal is in principle, there are no details in respect of the layout and design of the proposed dwellings. However, if the application is approved, these details would be assessed within any future application(s) for matters specified in conditions.
- It is considered that an underpass would not meet the terms of the 'Place Principle' within NPF4, being as it could not be regarded as forming a 'safe and pleasant' means of link to the settlement of Ayr.
- Any noise, dust, vibration or pollution associated with the proposed development would be of a temporary nature and would not merit refusal of the planning application.
- In respect of light pollution, it is noted that the Council's Environmental Health Service offer no objection to the development proposal. Again, should the application be approved, this would be a matter considered at a later date.
- The proposed development would alter the semi-rural setting of Ayr Crematorium and would introduce an urban environment in relatively close proximity. However, it is noted that structure planting is proposed between the proposed development and the Crematorium which would provide a degree of protection.

### **Inaccuracies/contradictions/anomalies within submission**

- The submitted LVIA includes a visual representation as viewed from Ayr Cemetery and this is not an error – it represents a relative high viewing point from the settlement of Ayr.
- In respect of footpaths shown through the quarry and the Transport Statement outlining that this area is outwith the control of the applicant, the application is in principle and what is indicated on the submitted Indicative Spatial Masterplan may not come forward in any future application(s) for matters specified in conditions (should the application under consideration be approved).
- In respect of drawings within the submitted Utilities Report being stamped with 'this map image may not be used for planning use', this is private matter between the parties involved.

### **Health and Safety**

- In respect of the High-Pressure Gas Main Pipe, SGN Networks were consulted on the application and whilst initially issuing a holding objection, subsequently offered no objection to the application following discussions with the applicant (which the Council as Planning Authority had no part).
- The gap between any future housing and the overhead powerlines in situ would be a matter for the applicant to address with Scottish Power – this is outwith the remit of Planning function.
- SGN offer no objection to the application under consideration.

### **Proposed Development**

- Planning applications are assessed on their planning merit and the need for the proposed development is not required to be demonstrated.
- The living standards of local residents are protected through the planning application process.
- The concerns of residents are assessed within the planning application process and monetary gain plays no part in the planning assessment.
- The proposed development is located to the immediate north of the crematorium and should the application be granted, the proximity of any residential dwellings to the crematorium in any future application(s) of matters specified in conditions would require to be carefully considered. It is noted that extensive structure planting is indicated on the submitted Indicative Spatial Masterplan between the proposed development and crematorium.
- In respect of the extension of the town not being a positive improvement, every planning application requires to be assessed on its planning merit.
- In relation to the make of up affordable units, should the application be approved, this is a matter which would be assessed within any future application(s) for matters specified in conditions.
- It is considered that community and leisure facilities would be utilised within the settlement of Ayr. Notwithstanding, each planning application requires to be assessed on its individual planning merit and it is for the applicant to determine what to include within the application submission.
- Construction timeframes do not form part of the planning assessment.
- The application includes a proposal for residential development as opposed to food production and it requires to be assessed on its planning merit.

### **Consultation/Neighbour Notification**

- The planning application was validated on 3<sup>rd</sup> May 2022, with neighbour notification being issued on 13<sup>th</sup> May 2022. The application was also advertised in the local press on 17<sup>th</sup> May 2022. It appears that the planning application was 'picked up' by social media between the time of validation and neighbour notification being issued. Notwithstanding, the purpose of neighbour notification is to make individuals aware of a planning application.
- The development proposal was subject to the Pre-Application Consultation and the submitted Pre-Application Consultation Report confirms that a live interactive event was held between 3pm and 7pm on 27<sup>th</sup> October 2021 (consultation was undertaken electronically due to introduction of The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020, The Town and Country Planning (Emergency and Extended Period) (Coronavirus) (Scotland) Regulations 2021 and The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2022. The Planning Service accepts representations up until the time of assessment conclusion. However, it is recognised that the neighbour notification letter does state that any representation should be submitted within 21 days.

### **Other Matters**

- **Loss of countryside view.**
- **Loss of property value.**
- **Application has been rejected before, should be again.**
- **What are the plans to keep the crematorium open should the development go ahead?**
- **The amount of new builds in Ayr is alarming – how many more will be allowed?**

These matters are not material planning considerations in the assessment of this planning application.

- **Other developments which were approved questioned, future Space Centre fears, distrust of authorities.**

Each individual planning application is assessed on its planning merit.

- **Progress with number of builds required to meet Scottish Government legislation – National Developments NPF4.**

It is unclear what is being referred to here; however, there is currently no shortfall in housing land supply within South Ayrshire and national targets are being achieved.

- **UK Legislation 'Bribery Act 2010', South Ayrshire Anti-fraud and Anti-bribery Strategy 2021 – need assurances these will be implemented.**

Every planning application is assessed in an open and transparent manner. All 'Major' planning applications require to be considered by South Ayrshire Regulatory Panel (Planning) and these meetings are open to the public to attend should they wish.

The representation in support of the proposed development outlines that there is a shortfall of energy efficient homes in South Ayrshire, that a wide variety of house types should be provided and that commercial 'co-working' spaces should also be considered.

#### Impact of the proposed development on the locality

The Ayrshire Roads Alliance have advised that they cannot fully appraise the development proposal at this time. Whilst the impacts of traffic can be tested, any mitigation should take cognisance of the LDP2 mitigation measures to make sure it does not prejudice or conflict the delivery of mitigation deemed to be required to support the release of allocated sites. The ARA are yet to conclude the Traffic Study work on LDP2 (including the A77) with Transport Scotland and have therefore advised that the application cannot be fully assessed relative to traffic and transportation issues at this time. They recommend deferral of the application until such time as the LDP2 Traffic Study is concluded, the package of mitigation measures has been identified and agreed with Transport Scotland and associated indicative cost contributions allocated to individual LDP2 sites. The Planning Service has given significant weight to this consultation response and consider the proposal to be contrary to NPF4 Policy 18: Infrastructure First and LDP Policies: Delivering Infrastructure and Strategic Road Development in this regard.

Transport Scotland recommends various conditions to mitigate the impact of the proposed development which would include the provision of an underpass below the A77 to connect the site with Holmston, Ayr, dualling of the A77 between Holmston and Whitlets roundabouts and improvements to the Holmston roundabout. These works would require significant engineering and would be at substantial cost that would require to be borne in full by the developer. There has been no indication from the developer at this time if the provision of such infrastructure would even be viable and deliverable.

As noted elsewhere within this report, there are significant concerns with an underpass given that they are not a modern design solution to creating connections, they are not overlooked, and are unwelcoming and unattractive. An underpass would be contrary to NPF4 Policy 14: Design, Quality and Place and LDP Policies: Strategic Policy 1: Sustainable Development and Strategic Policy 2: Development Management and national planning guidance: Designing Places, Designing Safer Places and Creating Places.

The Council's Education Service has serious concerns and has advised that the proposed housing development would present significant pupil placement challenges if progressed. Although SAC Education do not anticipate any problems with accommodating pupils requiring a denominational education at either Queen Margaret Academy or at St John's Primary School, both catchment non-denominational schools – Forehill PS and Kyle Academy are at capacity and, based on current rolls, will not be able to accommodate the anticipated number of non-denominational pupils arising from the proposed development. The product of 350 homes (circa 108 primary pupils and 67 secondary pupils) would most likely be accommodated and mitigated through school extensions, rather than a new build school provision. The applicant has not submitted a feasibility study. The Council's Education service has not undertaken a feasibility study at this time on a further extension of either Forehill PS or Kyle Academy, due to the fact that the planning application site is not allocated for housing, the proposal is significantly contrary to the Development Plan and is being recommended for refusal. Notwithstanding, there are concerns about the space and capacity for an extension at Forehill PS and whether this would be achievable. The fact remains that the applicant has not submitted any proposals with this application to mitigate against the pupil placement challenges e.g., proposals to fund extensions at Forehill PS or Kyle Academy.

It is a legal requirement that development is capable of mitigating its impact. Although this is a planning permission in principle application and details are not yet known, there is insufficient information to be able to conclude at this time that this development is capable of mitigating its traffic, sustainable pedestrian and educational impacts. Furthermore, all mitigation requires to satisfy criteria of being necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Without knowing the detail of the mitigation proposals, it is not possible to conclude that any mitigation that is identified at subsequent detailed planning stages could satisfy these criteria.

If the application was approved contrary to the recommendation of the Planning Service, then NPF4 Policy 18: Infrastructure First and LDP Policies: Delivering Infrastructure and Strategic Road Development would require to be complied with and the pupil placement challenges mitigated in full. The Council would be required to enter into an agreement with the developer under Section 75 of the Town and Country Planning (Scotland) Act 1997 which would involve the developer bearing the full cost of extensions to both schools, which would be substantial. It is unclear at this time if this would even be viable. It is also unclear at this time whether there is space and capacity for a further extension of Forehill PS, as noted in the preceding paragraphs.

The application site has been previously rejected by the Scottish Government Reporter for allocation within the Local Development Plan 2 due to it being considered that the site was very prominent within the landscape and that development would have an adverse impact on the character of the locale. There have been no changes to the physical characteristics of the site that would change this view, it remains the case that a housing development on the application site would have significant landscape impacts and would therefore be contrary to NPF4 Policy 14: Design, Quality and Place and LDP Policies: Strategic Policy 1: Sustainable Development and LDP Policy: Landscape Quality.

The application should be considered in the context of a plan led system, as advocated in the development plan and the policies contained therein - National Planning Framework 4 and LDP2. It is considered that the principle of development of this land for residential purposes on an unallocated site has not been justified and cannot be supported by the framework of planning policy as set out within the Development Plan. The application is therefore recommended for refusal - there are no material considerations which would outweigh the issues set out in the report and lead to a different recommendation.

## **9. Conclusion:**

This application relates to planning permission in principle for the erection of a residential development and neighbourhood commercial development (Class 1 Retail, Class 2 Professional Services, Class 3 Food and Drink and Class 4 Office), access, landscaping, drainage and associated works. The site extends to approximately 34 hectares and the application proposes that approximately 350 residential units could be accommodated (including 25% affordable housing provision) and a maximum of 1,000 square metres of neighbourhood commercial uses across the whole development. The site would primarily be accessed from an existing roundabout on the A70, with access also possible from the existing road towards Masonhill Crematorium. An underpass below the A77 is also proposed to connect the site with Holmston, Ayr to the west.

The application has been assessed against the Statutory Development Plan (which includes NPF4 and LDP2) and various material planning considerations which include consultation responses, representations received and the impact of the proposed development on the locality. The assessment concludes that the proposed development is contrary to the provisions of NPF4 and LDP2 due to the application site not being an allocated site, adverse landscape impact and because it has not been demonstrated that the proposed development would bring a net economic benefit to Ayr. There are also unresolved questions in respect of the capacity of the local road network to accommodate the additional vehicle trips which would be generated. The proposed pedestrian/cycle underpass would provide a substandard sustainable travel link to Ayr however it is considered that it does not represent an attractive or welcoming feature in respect of creating a safe and pleasant sense of place. There is also doubt about whether an underpass and dualling of the A77 (as requested by Transport Scotland) between Whitletts and Holmston Roundabouts is viable and deliverable. Furthermore, the Council's Education Service also raises serious concerns as the proposal presents school capacity issues. The points raised in the letters of objection have been fully considered and it is agreed that some of the issues raised merit a recommendation of refusal for the application. In light of the aforementioned issues, it is considered that the proposal would run counter to the plan led system. Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the application be refused for the reasons outlined below.

**10. Recommendation:**

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

**Reasons:**

**Principle of Development**

1. The proposed development is contrary to NPF4 Policies: 5: Soils, 9: Brownfield, Vacant and Derelict Land and Empty Buildings and 14: Design, Quality and Place and LDP Policies: Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management, Maintaining and Protecting Land for Housing, Rural Housing and Agricultural Land Policy in that the proposed development site is not an allocated development site identified in the South Ayrshire Local Development Plan, there is no shortfall in effective housing land supply and allocated sites are not being built out more quickly than expected and it has not been demonstrated that there is a need for residential development in the area concerned. Moreover, there is no evidence to suggest that the development would result in a net economic benefit or contribute significantly to the implementation of the Ayrshire Growth Deal, the regeneration of Ayr or result in overriding community interest. Furthermore, the development of the application site for housing could undermine the viability and probability of pre-existing allocated and consented sites in the LDP being developed, most of which are within existing settlements and/ or on brownfield sites. There are no over-riding reasons to depart from the policies as detailed in NPF4 and the South Ayrshire Local Development Plan.

**Impact on Landscape**

2. The proposed development is contrary to NPF4 Policy 14: Design, Quality and Place and LDP Policies: Strategic Policy 1: Sustainable Development and LDP Policy: Landscape Quality in that the proposed development would not respect the character of the landscape as set out by the Reporter during the assessment of sites relative to LDP2. The development would introduce development at a prominent site and location and at a scale and density that would adversely impact the landscape character and skyline.

**Successful Places**

3. The proposed development is contrary to NPF4 Policy 14: Design, Quality and Place and LDP Policies: Strategic Policy 1: Sustainable Development and Strategic Policy 2: Development Management and national planning guidance: Designing Places, Designing Safer Places and Creating Places in that the proposed underpass does not accord with the six qualities of successful places, in particular, it does not represent a welcoming, pleasant or overlooked connection between the application site and Ayr.

**Impact on Road Network**

4. The proposed development is contrary to NPF4 Policy 18: Infrastructure First and LDP Policies: Delivering Infrastructure and Strategic Road Development in that the Council's LDP2 A77 Traffic Study is not concluded, with the package of cumulative mitigation measures not having been identified and agreed with Transport Scotland or associated indicative cost contributions allocated to individual LDP2 sites. The impact of the proposed development on the road network therefore cannot be fully determined at this time.

**Proposals fail to demonstrate mitigation of the impact of the development**

5. The proposed development is contrary to NPF4 Policy 18: Infrastructure First and LDP Policy Delivering Infrastructure in that there is considerable doubt as to whether the proposals are capable of mitigating the impact of the development. It is not known whether the engineering requirements to provide an underpass are viable and deliverable, the requirement to mitigate traffic impact on the A77 is unknown as the traffic study associated with LDP2 has not been concluded and mitigation for education is also not clear. Furthermore, it is not clear whether the dualling of the A77 from Whitletts to Holmston Roundabouts is viable and deliverable. It is not possible to conclude that mitigation of the aforementioned elements is capable of being delivered.

**List of Determined Plans:**

Drawing - Reference No (or Description): 1819/01 REV E

Drawing - Reference No (or Description): 1819/02

Drawing - Reference No (or Description): Storm water Drainage Strategy Plan

Supporting Information - Reference No (or Description): PAC Report

Supporting Information - Reference No (or Description): Design Statement (March 2022)

Supporting Information - Reference No (or Description): Updated Design Statement (April 2024)

Supporting Information - Reference No (or Description): Landscape and Visual Impact Assessment (March 2022)

Supporting Information - Reference No (or Description): Preliminary Ecological Appraisal (February 2022)

Supporting Information - Reference No (or Description): Updated Ecological Appraisal (April 2024)

Supporting Information - Reference No (or Description): Flood Risk Assessment (March 2022)

Supporting Information - Reference No (or Description): Drainage Strategy Report (March 2022)

Supporting Information - Reference No (or Description): Geo-environmental Desk Study Report (January 2018)

Supporting Information - Reference No (or Description): Utilities Overview (January 2018)

Supporting Information - Reference No (or Description): Transport Assessment (March 2022)

Supporting Information - Reference No (or Description): Socio-Economic Report (March 2022)

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

Supporting Information - Reference No (or Description): Statement of Community Benefit (March 2024)

Supporting Information - Reference No (or Description): Biodiversity Enhancement Plan (April 2024)

**Background Papers:**

- Application form, plans and supporting documents.
- National Planning Framework 4 (NPF4).
- South Ayrshire Local Development Plan 2 (LDP2).
- Designing Places
- PAN 77: Designing Safer Places
- Creating Places
- Secured by Design
- Representations received.
- Consultation responses received.
- Scottish Ministers' decision on the planning appeal (ref: PPA-400-2147) at Mossend, West Lothian, July 2023
- 21/01050/PAN - Proposal of application notice for planning permission in principle for residential development and neighbourhood commercial development (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office), access, landscaping, drainage and associated works
- 22/00236/EIASCRC - EIA Screening Opinion request for proposed planning permission in principle for residential development and neighbourhood commercial development (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office), access, landscaping, drainage and associated works
- Inner Court of Session appeal decision Ref. [2024] CSIH 11 XA41/23 dated 3 May 2024

**Regulatory Panel (Planning): 25 June 2024**

Report by Housing, Operations and Development Directorate (Ref: 22/00302/PPPM)

**Equalities Impact Assessment:**

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

**Person to Contact:**

Mr Craig Iles, Service Lead – Planning and Building Standards - Telephone 01292 616 417

E: [chief.planner@gov.scot](mailto:chief.planner@gov.scot)

26 June 2024

Dear Colleagues

## **Planning for Housing**

Scotland has declared a national housing emergency. In setting out the Scottish Government's key priorities, the First Minister confirmed his intention to engage constructively to expand housing supply to meet the needs of the population and tackle homelessness. An all-tenure approach to the provision of new homes, which diversifies supply and provides a mix of tenures, will help to achieve these priorities.

Planning is just one of many factors that impact on the delivery of housing, but it must play its part. Delivery of homes depends on building the confidence of investors – and planning plays a crucial role in this.

Following the [Miller Homes vs. Scottish Ministers, XA41/23](#) court judgement and the more recent declaration of the housing emergency, this letter looks to provide further clarification on application of National Planning Framework 4 (NPF), including Policy 16 'Quality Homes'.

## **Implementation of NPF Policy**

The Scottish Ministers have continued to reinforce that policies in NPF4 should be **read and applied as a whole** and that conflicts between policies are normal and to be expected. The planning system requires decision makers to weigh up all relevant policies, for example, quality homes, brownfield development and town centre living, as well as relevant material considerations in applying balanced planning judgement (section 25 of the Town and Country Planning (Scotland) Act, 1997, as amended). The introduction of NPF4 has not changed this.

The approach to planning for housing in NPF4 is different to that in previous, now superseded, Scottish Planning Policy (SPP). The SPP concepts including an effective five-year housing land supply, shortfalls in supply and the tilted balance, no longer apply. The above court judgement confirmed 'the changes to the development plan move housing policy away from disputes over numbers to an approach which seeks to provide homes in suitable locations' and that 'looking at the policies as a whole there is an emphasis on quality, diversity and sustainability'.

The sections on ‘policy intent’ within NPF4 are provided to help decision makers deliver on policy aspirations. The **intent** of Policy 16 is:

“to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.”

NPF4 expects local development plans to take an **ambitious** approach, with Local Housing Land Requirements that exceed the MATHLR (Minimum All-Tenure Housing Land Requirement). This expectation is reinforced in published guidance supporting preparation of local development plans. The guidance indicates that the same evidence can be used to inform the MATHLR but that where more recent information is available it should be used. It is expected all information used to inform plan preparation is robust.

An ambitious approach, providing land to accommodate a wide choice of homes across a range of scales of sites and locations, will support the above policy intent. It is vitally important that local development plans are brought forward timeously. On land allocated for housing in local development plans, there is support for development in principle from policy **16 part a)**.

NPF4 provides at policy **16 part b)** for proposals to explain how they will contribute positively to meeting local housing requirements, to local infrastructure services and facilities, and to residential amenity, using new Statements of Community Benefit.

Policy **16 part c)** supports proposals that improve affordability and choice, and address identified gaps in provision. A list of examples of the types of proposals this policy could support is provided. In relation to ‘identified gaps in provision’, decision makers may wish to consider the extent to which a proposed development of new homes will contribute to addressing recognised priorities of an area. This can be evidenced by a range of information available on local housing matters, such as Local Housing Strategies, local authority housing emergency action plans or planned actions to support emerging economic opportunities.

Policy **16 part e)** supports proposals for new homes where they make provision for affordable homes to meet an identified need and it strengthened contributions to affordable housing from market sites to ‘at least 25%, with flexibility to local circumstances. Policy **16 part f)** includes a limited exception that can allow proposals of less than 50 affordable homes on unallocated sites, where they accord with criteria relating to build-out and the plan’s spatial strategy and other relevant policies.

A significant element of the previously mentioned legal case related to policy **16 part f)** and a deliverable housing land pipeline. At the same time as publishing this letter, Scottish Ministers have also written to planning authorities to require that action programmes associated with local development plans be reviewed, up-dated and re-published as delivery programmes, and for this to be done by 31 March 2025. Under transitional arrangements, this will ensure they include the sequencing of, and timescale for, the delivery of housing sites allocated in local development plans.

As outlined above, policy 16 contains different parts with some aspects relating to location and others to types of homes. They should be weighed up as relevant to the proposal: there is no hierarchy and no one part of policy should always outweigh others. A balanced planning judgement should be reached in each case.

## Positive and Constructive Collaboration

We are seeking to develop a more positive dialogue on planning for housing, recognising the benefits quality homes and places can bring. We need to find constructive solutions to challenges, and to work collectively on the issues with strong commitment and buy-in across sectors.

The Scottish Government remains committed to working collaboratively with all those with an interest in planning and housing. We are currently giving careful consideration to the Competition and Markets Authority report on the housebuilding sector, and in particular the options put forward on planning.

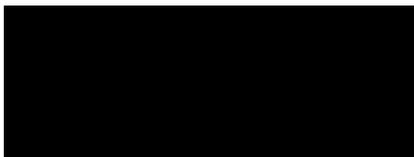
Late last year, the Planning and Housing Ministers jointly convened a roundtable to consider the issues affecting new homes and possible actions to address them. This group will be reconvened after the Parliamentary summer recess, and in the meantime we are progressing some initial actions. These include:

- Convening a discussion on research produced on behalf of Homes for Scotland on housing need;
- Discussing with SME housebuilders how their experiences of the planning system can be better supported;
- Working across sectors on the implementation of Statements of Community Benefit for housing proposals;
- Finalising guidance on Housing Land Audits and seeking to secure support from across sectors to enable their roll out; and
- Promoting place and delivery focused Masterplan Consent Areas in areas seeking to be early adopters of this new tool.

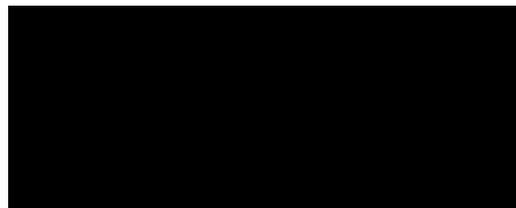
The housing emergency is a challenge that must be tackled on many fronts. We intend to work positively and constructively to ensure the planning system contributes all it can to support delivery of the quality homes Scotland needs, where and when they are needed.

We trust the above advice supports this.

Yours faithfully



**Dr Fiona Simpson**  
Chief Planner



**Ivan McKee MSP**  
Minister for Public Finance



# Planning and the Housing Emergency - Delivery Plan

November 2024

## The challenge

The Scottish Government is focused on addressing the national housing emergency. Our planning system has a key role to play in facilitating the delivery of more homes across Scotland.

We have taken a progressive and positive approach to planning reform in Scotland to support the delivery of the right homes in the right places, helping to tackle the housing emergency. Our national planning policies are clear about what good development looks like, including contributions to sustainable development and wider place-making objectives. With the right support and investment, planning can and should actively enable good quality development.

Evidence shows that the housing emergency has emerged as a result of a number of factors. In Scotland, planning permission has been granted for many more homes than are currently being built. The Competition and Markets Authority, in a [report](#) published earlier this year, identified that since 2014, the average number of homes given planning permission in Scotland was 29,000 annually, and that this significantly exceeded housing land supply targets, and indeed the number of house starts (average 19,892 per year) and completions (average 19,160 per year), over the period as a whole. This evidence on supply raises questions about how sites that already have planning permission, which in total are estimated to represent more than 164,000 unbuilt homes across Scotland<sup>1</sup>, can come forward to delivery.

To further understand the specific challenge for planning, we have reviewed in more detail the land supply in the Glasgow and Edinburgh city regions<sup>2</sup>, based on data gathered by local authorities in their latest housing land audits and compiled by the Improvement Service, as well as commercially available construction data on activity on sites. This suggests, as a broad estimate, that across these regions land for around 114,000 homes has been granted planning permission and not yet completed. Of these, 38,000 units had started work on site. In addition to this, there was also allocated land for a further 64,000 homes that had yet to receive planning permission.

Notwithstanding the above, we of course recognise that there is scope for improvement in the planning system in Scotland, something that the CMA report also identified noting that the process was not predictable for housebuilders, and can be costly, lengthy and complex. It set out a number of recommendations for improving planning. Whilst planning delays can arise for a number of different reasons, statistics on decision-making timescales show that there is scope to make the system more effective, particularly at a time when new homes are urgently required. We have been clear that more capacity within planning authorities, as well as greater efficiency, could have the most significant, positive impact on the ability of the planning system to play a more active role in co-ordinating services and facilitating delivery. There is also scope for streamlining practice to make best use of available resources.

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<sup>1</sup> This is based on data from 24 local authorities, covering around 85% of the national population. This represents the remaining capacity of land with planning permission in the latest available Housing Land Audit information.

<sup>2</sup> The areas include the former Clydeplan and SESplan areas: Glasgow, West Dunbartonshire, East Dunbartonshire, North Lanarkshire, South Lanarkshire, East Renfrewshire, Renfrewshire and Inverclyde; and Edinburgh, West Lothian, Midlothian, East Lothian, Fife and the Scottish Borders respectively.

## Our response

Planning can help to enable development by providing a high quality and responsive planning service, backed by professional expertise. To unlock the potential of planning as a lever for investment in our economy, the system needs to operate as efficiently as possible, and planning authorities must be properly equipped to deliver a good quality service. By acting now to tackle delays and to better understand and respond to delivery challenges, planning can provide solutions to common issues, which may be perceived as 'blockers' including decision-making timescales, complexity, and challenges to delivering development on site.

Everyone involved in planning has a role to play in supporting a national push to deliver more homes, including affordable homes where they are required. Some actions will require the Scottish Government and planning authorities to prioritise action on housing, whilst others will depend on changes within the development sector. Agencies and other consultees can also work together to ensure that they do not inhibit rapid progress in this area.

We expect to see a focus on addressing this emergency in decision-making on both plans and applications.

The Scottish Government will do all it can to ensure the actions set out here are progressed at pace over the coming 6 months, focusing on the following key objectives:

- **Policy:** a strong and consistent planning and policy framework for investment.
- **Delivery:** actively enabling and facilitating development.
- **Efficiency:** an end-to-end approach to improving the efficiency of the system.
- **Capacity:** investing in capacity with access to excellent professional skills and expertise.

## **Policy: A strong and consistent planning and policy framework for investment.**

We have reformed Scotland's planning system to strengthen a plan-led approach to development, providing greater consistency and certainty for all stakeholders. National Planning Framework 4 (NPF4) sets out a strong vision for the future and includes a single set of national planning policies which is now being applied to all planning decisions. The strategy is designed to support the delivery of more quality homes. National planning policy is clear that planning applications will be supported in principle, where they are on sites allocated in local development plans.

NPF4 signals a move away from past practice which allowed for additional land, which is not supported by plans, often in more easily developed, greenfield locations, to be released if insufficient land for housing was available. This policy (known as 'the presumption in favour of sustainable development') was the subject of much debate, conflict, time and delay in planning. In practice, and contrary to what the policy originally intended, low levels of housing completions – built to local market conditions – were often used to justify building on additional land which had not been planned for.

Our policies are now designed to incentivise developers to build out their sites more quickly. Other policies also strongly support the provision of affordable homes that meet diverse needs. This will ensure that homes are built in planned locations which will better meet people's needs and avoid building in unsustainable costs for the longer-term.

However, we recognise that the introduction of NPF4 has been a significant change for the Scottish planning system, and whilst most policies are now widely understood, there is still work to be done to support planning authorities and applicants work effectively with the new approach.

Over the next 6 months we will:

1. Continue to work with planning authorities to ensure that **national planning policies** are applied consistently across Scotland. This will provide more clarity and certainty and help to reduce delays in decision-making times. Further guidance on key topics, including climate, flooding and biodiversity, will also be issued.
2. **Identify mechanisms to stimulate the build-out of housing sites** with planning permission, in line with a plan-led approach. Our policies are designed to achieve this, but we are aware that market circumstances are limiting progress and that build-out has been significantly lower than permissions for a number of years. We will therefore look to identify mechanisms to support our policy and stimulate build-out at a faster pace to ensure more homes are delivered faster. We are open to working with the UK Government on this as a shared objective.
3. Work with stakeholders to promote good practice in demonstrating **community benefits from new housing developments**. It is important that development proposals are informed by local information and views – this can help to achieve better outcomes, to manage impacts and to secure buy-in, thereby helping applications to move through the system more smoothly. We will also publish new guidance on effective engagement with communities, to help involve people early, including by linking with local place plans.

## **Delivery: Actively enabling and facilitating development.**

Scotland's planning system is open for business. We want to take a 'Team Scotland' approach to development, and in particular the delivery of more homes, building on existing relationships and practices. Our clear ambition is to use the planning system to make Scotland the most attractive part of the UK for investment. As part of this we will take forward any opportunities we have to provide more support to planning authorities to help unblock applications which are in the system, regardless of the reasons for any delays. We also recognise that delivery challenges do not stop once a project has been granted planning permission. Many different interests need to come together to support the implementation of projects on the ground.

Over the next 6 months we will:

4. Establish an action-focused **Housing Planning Hub** to provide brokerage support for major housing developments which have stalled in the system. As a starting point for this we have asked partners to assemble information on stalled sites and will draw on similar work already undertaken to inform the work of the Housing Investment Taskforce as well as wider data on the land supply. Stalled sites are primarily those which already have planning permission but have not yet been built out. We will also identify where, there is scope to help those which have yet to receive permission to proceed through the process. This support could include, for example, bringing planning authorities together with applicants and key agencies to identify any barriers which require additional information or action to overcome. We will also contact investors to identify where additional proactive advice or support for negotiating the planning system is required. The approach will be designed to support, rather than replace, the expertise of planning officers in local authorities. We will only do this work where there is agreement, by all parties, that it can add value.
5. Work with **SME housebuilders** to better understand the challenges they face with the planning system and identify actions to support them. We recognise that the planning system can appear complex and so we could, for example, develop tailored guidance to specifically support SMEs to navigate the process.
6. Help early adopters to put in place **Masterplan Consent Areas**. These grant planning permission up-front, de-risking the planning process for investors. They have significant potential to make the planning process simpler, including by aligning planning permission with other consents. We are keen to explore this with both planning authorities and potential developers.
7. Help planning authorities to bring forward new style development plans including a pipeline of **deliverable housing land** and delivery programmes. Supporting this, we will publish new guidance on housing land audits, to help build a clearer picture of the availability of housing land across Scotland. We will also work with planning authorities and partners to more fully understand the sufficiency of land already allocated in existing local development plans.
8. Continue to work with our advisory group and other stakeholders to progress **compulsory purchase reform** ahead of a consultation in 2025. This has the potential to further empower local authorities and other partners to proactively facilitate the delivery of homes, for example by redeveloping vacant and derelict land and refurbishing empty properties.

## **Efficiency: An ‘end-to-end’ approach to improving the efficiency of the system.**

Structural changes have already been made to the planning system which aim to improve performance. Much of this work has been led by the National Planning Improvement Champion, funded by the Scottish Government, over the past 14 months. However, we know that practice and timescales can vary, and that planning has increasingly taken on board additional and often complex information. Rather than further changes to the system which would add uncertainty and further delay, we are focused on supporting improvements to performance and practice.

Over the next 6 months we will:

9. Continue to support the **National Planning Improvement Champion** to roll out a new framework for performance improvement across all planning authorities building on the work that has been done already.
10. Work with planning authorities and applicants to increase the use of **processing agreements and pre-application advice**. These provide clarity over timescales and increase confidence in the process.
11. Provide advice on further streamlining and consistency in **validation of planning applications**. This will be informed by the work of a short-life working group on proportionality in the planning system which is also looking for opportunities to ensure that information requirements to inform planning assessments are appropriately scoped.
12. Work with Heads of Planning Scotland to develop advice on **standardised planning conditions**.
13. Work with Heads of Planning Scotland to encourage the use of a **standard template for Section 75 planning agreements**.
14. Work with Heads of Planning Scotland to identify and share best practice in **aligning various consents** required in addition to planning permission. We are aware that whilst planning has an important role to play, other services are also instrumental in unblocking the delivery of development proposals.
15. Stop work on the introduction of an **infrastructure levy**. Whilst infrastructure has a critical role to play in supporting placemaking, early engagement to inform the development of regulations suggests that the levy could add significant complexity to the system whilst offering limited benefits in terms of infrastructure funding and delivery, which could further undermine investor confidence at this time.
16. Highlight examples of **good practice** in development management – on the part of both authorities and applicants – and take steps to communicate these to provide guidance for practitioners.
17. Consider and engage widely on the potential scope for further **permitted development rights** which could support housing delivery in specific circumstances. Examples might include allowing the change of use of premises above shops to residential use as a means of stimulating an increase in town centre living.

We have identified key issues that need addressed at each stage of the planning process, together with solutions to address them, as illustrated below.

**Issues:**

Low take-up of processing agreements.

Varying capacity for planning authorities to support pre-application advice.

**Issues:**

Lack of clarity on information requirements.

Applicant timescales for providing information.

Varying application of guidance on validation requirements.

**Issues:**

Varying levels and types of information required.

Concerns about overstating requirements e.g. for Planning Permission in Principle.

Delays due to time and capacity of statutory consultees.

**Issues:**

Inconsistency / unpredictability of decisions and timescales.

Timescales vary and depend on capacity.

Schemes of delegation vary – committee cycles can slow decisions.

**Issues:**

Varying approaches to conditions.

SME concerns about scale / number of conditions.

Discharge of conditions / S75 obligations (including for affordable housing).

**Issues:**

Rate of completions determined by developer rather than planning authorities.

Information in land audits varies.

**Pre-application**

**Application & validation**

**Assessment**

**Determination**

**Discharge of conditions, S75 Agreements**

**Starts & completions**

**Solutions:**

Increase capacity and resources.

Encourage use of pre application services and processing agreements.

Introduce charges to cover service costs.

**Solutions:**

Develop and promote application of guidance to achieve more consistency / predictability and reduce delays.

**Solutions:**

Increase capacity and resources.

Share best practice on proportionality.

Provide access to expertise and work with key agencies.

HOPS leading work on alignment of consents.

Officer training and skills.

**Solutions:**

Increase capacity and resources.

Elected member training.

**Solutions:**

HOPS leading work on standardised conditions.

HOPS leading work on S75 template.

**Solutions:**

HFS supplying evidence on reasons for sites stalling.

Identify mechanisms to stimulate completions.

Consistent approach to housing land audits.

**Capacity: Investing in capacity with access to excellent professional skills and expertise.**

Finally, improvement in planning will only be possible if there is increased capacity and resources in the system. We consulted earlier this year on measures which might help to reverse the decline in planning services and are already taking forward a number of actions in this area. We intend to continue this work, including commitments set out in the Programme for Government, and will accelerate progress where possible.

Over the next 6 months we will:

18. Treble the number of **bursaries** offered to post-graduate planning students, and we are taking action to raise awareness of planning as a career. This is a direct route to add significant resource to the planning process.
19. **Increase fees** for planning applications, with an expectation that income generated will be re-invested in planning services. This is an investment in planning services which will pay a substantial dividend in the coming years if fee income is used to help to secure additional investment and development as a result of service improvements.
20. Work with the National Planning Improvement Champion, who is leading the **Hydrogen Planning Hub**, to identify where wider improvement work can help to also address some of the process and practice challenges with housing that applicants, such as SMEs, are experiencing.
21. Develop arrangements for **local elected member training**. Planning Aid Scotland is progressing work to develop a fuller package of support for local authorities on training, which will better support councillors to navigate the planning process and ensure greater consistency and uptake of training opportunities.
22. Launch a Scottish Government **graduate programme** that supports work-based learning and helps to address the pipeline of future planners. We will work with the education and skills sector to develop an offer that combines part-time employment with funded post-graduate qualification in planning which leads to chartered status.
23. Roll out a **co-ordinated skills and recruitment drive**. We are working with a wide range of partners to assemble a more coherent national skills campaign for professional planners, tackling areas which will have the most impact on moving planning towards a more positive tool for enabling development. We will also include support and input from associated built environment professions, recognising the diversity of skills required.

Taken together we believe that this package of measures will make a measurable difference to the performance of our planning system, supporting housing development across Scotland in response to the housing emergency.

	Action	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
	<b>Policy</b>								
1	Continue to support the application of national planning policies								
2	Identify mechanisms to accelerate build out of housing sites								
3	Support good practice in community benefits from housing								
	<b>Delivery</b>								
4	Establish a Housing Planning Hub								
5	Work with SMEs to support them								
6	Promote and support roll out of Masterplan Consent Areas								
7	Support pipeline of deliverable housing land								
8	Compulsory purchase reform								
	<b>Efficiency</b>								
9	Support the National Planning Improvement Champion								
10	Good practice: processing agreements / pre-application advice								
11	Validation / proportionality of information								
12	Standardised conditions								
13	Promote use of Section 75 template								
14	Share good practice in aligning consents / services								
15	Confirm that work on the infrastructure levy will stop								
16	Highlight good practice in development management								
17	Publish discussion paper on permitted development rights								
	<b>Capacity</b>								
18	Offer additional bursaries								
19	Increase planning fees								
20	Link with the Hydrogen Planning Hub improvements								
21	Elected member training preparation								
22	Launch graduate apprenticeships / appoint / in place								
23	Skills and recruitment drive								



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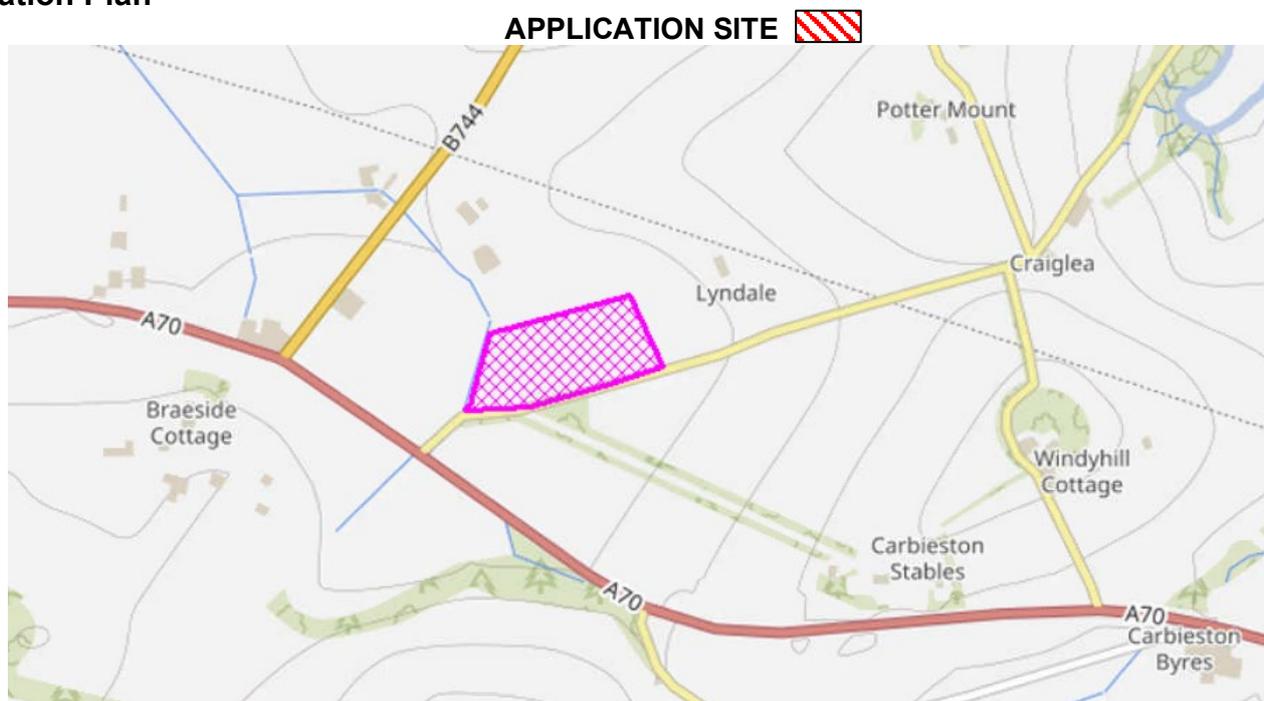
## REGULATORY PANEL: 03 APRIL 2025

### 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



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

[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

<b>SUBJECT:</b>	<b>CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989</b>
<b>APPLICATION REF:</b>	<b>24/00878/DEEM</b>
<b>SITE ADDRESS:</b>	<b>LAND AT BELSTON C2 FROM A70 SOUTH EAST OF BELSTON TO COUNCIL BOUNDARY SOUTH OF LAIGH DALMORE SOUTH AYRSHIRE KA6 5JR</b>
<b>DESCRIPTION:</b>	<b>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</b>
<b>RECOMMENDATION:</b>	<b>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.</b>

## 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 **5<sup>th</sup> 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 (**5<sup>th</sup> 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 28<sup>th</sup> 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 2<sup>nd</sup> 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 26<sup>th</sup> 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 14<sup>th</sup> August 2023 and responded on 23<sup>rd</sup> 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 26<sup>th</sup> 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 3km<sup>2</sup>.
- 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 13<sup>th</sup> 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 adaptation), 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 adaptation), 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 be 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 3Km<sup>2</sup>. 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:**

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## **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.

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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.